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Volume IX.

(EVIDENCE FOR DEFENDANTS.)

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1911

No. 820

THE UNITED STATES OF AMERICA, APPELLANT,

vs.

THE UNION PACIFIC RAILROAD COMPANY ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF UTAH.

FILED OCTOBER 9, 1911.

(22896)

No. 993—In Equity.

IN THE

Circuit Court of the United States

FOR THE DISTRICT OF UTAH.

THE UNITED STATES OF AMERICA,
Complainant,

v.

THE UNION PACIFIC RAILROAD COMPANY; THE OREGON SHORT LINE RAILROAD COMPANY; THE OREGON RAILROAD & NAVIGATION COMPANY; THE SAN PEDRO, LOS ANGELES & SALT LAKE RAILROAD COMPANY; THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY; THE SOUTHERN PACIFIC COMPANY; NORTHERN PACIFIC RAILWAY COMPANY; GREAT NORTHERN RAILWAY COMPANY; FARMERS' LOAN & TRUST COMPANY; EDWARD H. HARRIMAN, JACOB H. SCHIFF, OTTO H. KAHN, JAMES STILLMAN, HENRY H. ROGERS, HENRY C. FRICK, and WILLIAM A. CLARK,
Defendants.

EVIDENCE AND PROCEEDINGS BEFORE THE SPECIAL EXAMINER.

Volume IX.—Defendants.

WITH LIST OF WITNESSES AND EXHIBITS.

INDEX OF WITNESSES AND EXHIBITS IN VOLUME 9.

(For complete index see end of last volume.)

	Original.	Print.
Orders	6543–6549	3885–3889

WITNESSES.

	Original.	Print.
Stubbs, J. C. (3)	6549	3890
Spence, Lewis J	6717	3987
Munroe, John A. (2)	6797	4037
Kruttschnitt, Julius (2)	6869	4087
Mohler, A. H	7035	4186
Park, William L	7183	4280
Lincoln, William David	7254	4323
O'Brien, James P	7271	4333

EXHIBITS.

Defendants' Exhibit	45	6653	3949
" "	46	6659	3953
" "	47	6664	3956
" "	48	6667	3958
" "	49	6670	3960
" "	50	6674	3962
" "	51	6677	3964
" "	52	6681	3966
" "	53	6685	3969
" "	54	6689	3970
" "	55–56	6744	4003
" "	57	6750	4007
" "	58	6783	4027
" "	59	6784	4028
" "	60	6816	4048
" "	61	6874	4090
" "	62	6875	4090
" "	63	6875	4090
" "	64	6875	4090
" "	65	6876	4091
" "	66	6879	4092
" "	67	6881	4092
" "	68	6885	4096
" "	69	6886	4097
" "	70	6889	4098
" "	71	6891	4099
" "	72	6894	4100
" "	73	6898	4103
" "	74–98 (photographs)	6903	4107
" "	99	6908	4110
" "	100	6916	4115
" "	101	6921	4118
" "	102	6923	4119
" "	103	6929	4123
" "	104	6934	4125
" "	105	6937	4127
" "	106	6949	4133
" "	107	6953	4135
" "	108–109 (blueprints, not printed)	6959	4139
" "	110 (photograph)	6960	4139
" "	111 (chart, not printed)	6962	4141

	Original.	Print.
Defendants' Exhibit 112–120 (photographs)	7045	4192
" " 121–127 (photographs)	7046	4193
" " 128–131 (photographs)	7048	4194
" " 132 (photograph)	7050	4195
" " 133 (photograph)	7051	4196
" " 134–138 (photographs)	7053	4197
" " 139–146 (photographs)	7054	4198
" " 147–152 (photographs)	7056	4199
" " 153	7164	4268
" " 154	7272	4334
" " 155	7273	4335
" " 156	7275	4336
" " 157	7277	4337
" " 158	7278	4338
" " 159	7280	4340
" " 160	7281	4341
" " 161	7283	4342
" " 162	7284	4343
" " 163	7285	4344
" " 164	7286	4344
" " 165	7287	4345
" " 166	7289	4346
" " 167	7289	4346
" " 168–175 (photographs)	7290	4347
" " 176 (photograph)	7291	4348
" " 177	7292	4348
" " 178	7294	4349
" " 179	7295	4350
" " 180	7296	4351
" " 181	7297	4351
" " 182	7298	4353
" " 183	7299	4353
" " 184	7300	4354
" " 185	7301	4355
" " 186	7303	4356
" " 187	7303	4357
" " 188	7304	4357
" " 189–197 (photographs)	7305	4358
" " 198	7306	4359
" " 199–201 (photographs)	7307	4359
" " 202–204 (photographs)	7308	4360
" " 205	7310	4361
" " 206	7312	4362
" " 207	7316	4365
" " 208	7321	4369
" " 209	7324	4371
" " 210	7362	4397
Complainants' Exhibit 210	6838	4070

6543 United States Circuit Court, District of Utah.

UNITED STATES OF AMERICA, COMPLAINANT,
vs.
UNION PACIFIC RAILROAD COMPANY, SOUTHERN PACIFIC COMPANY, et al., Defendants. } Order.

The above entitled cause came on to be heard this 23rd day of October, A. D. 1909, upon a motion of the defendants for an order directing the postponement of the date for taking testimony on the part of said defendants before Mr. Sylvester G. Williams, Special Examiner, the complainant appearing by C. A. Severance, Special Assistant to the Attorney-General, and the defendants by N. H. Loomis, Esq., John W. Lacey, Esq., and P. F. Dunne, Esq.

The said motion was heard upon the affidavits offered in support thereof and in opposition thereto. Upon due consideration it is ordered that, upon condition that the defendants in said cause shall agree to complete the taking of their testimony before said Special Examiner on or before March 19, 1910, which condition is now accepted and agreed to by the defendants, the further taking of testimony on their part now set for November 1, 1909, at the Custom House in the City of New York, be and the same is hereby postponed until Monday, January 3rd, 1910, at 10:30 o'clock in the forenoon, at Room 515 in the Custom House, Bowling Green, New York City, New York.

(Sgd) WILLIS VAN DEVANTER,
Circuit Judge.

6544 No. 993. In Equity.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF UTAH.

THE UNITED STATES OF AMERICA, COMPLAINANT,
vs.
THE UNION PACIFIC RAILROAD COMPANY; THE Oregon Short Line Railroad Company; The Oregon Railroad & Navigation Company; The San Pedro, Los Angeles & Salt Lake Railroad Company; The Atchison, Topeka & Santa Fe Railway Company; The Southern Pacific Company; Northern Pacific Railway Company; Great Northern Railway Company; Farmers Loan & Trust Company; Edward H. Harriman, Jacob H. Schiff, Otto H. Kahn, James Stillman, Henry H. Rogers, Henry C. Frick, and William A. Clark, Defendants. } Order Postponing Date of Hearing.

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" " 133 (photograph)	7051	4196
" " 134–138 (photographs)	7053	4197
" " 139–146 (photographs)	7054	4198
" " 147–152 (photographs)	7056	4199
" " 153	7164	4268
" " 154	7272	4334
" " 155	7273	4335
" " 156	7275	4336
" " 157	7277	4337
" " 158	7278	4338
" " 159	7280	4340
" " 160	7281	4341
" " 161	7283	4342
" " 162	7284	4343
" " 163	7285	4344
" " 164	7286	4344
" " 165	7287	4345
" " 166	7289	4346
" " 167	7289	4346
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" " 181	7297	4351
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" " 184	7300	4354
" " 185	7301	4355
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6543 United States Circuit Court, District of Utah.

UNITED STATES OF AMERICA, COMPLAINANT,
vs.
UNION PACIFIC RAILROAD COMPANY, SOUTHERN PACIFIC COMPANY, et al., Defendants. } Order.

The above entitled cause came on to be heard this 23rd day of October, A. D. 1909, upon a motion of the defendants for an order directing the postponement of the date for taking testimony on the part of said defendants before Mr. Sylvester G. Williams, Special Examiner, the complainant appearing by C. A. Severance, Special Assistant to the Attorney-General, and the defendants by N. H. Loomis, Esq., John W. Lacey, Esq., and P. F. Dunne, Esq.

The said motion was heard upon the affidavits offered in support thereof and in opposition thereto. Upon due consideration it is ordered that, upon condition that the defendants in said cause shall agree to complete the taking of their testimony before said Special Examiner on or before March 19, 1910, which condition is now accepted and agreed to by the defendants, the further taking of testimony on their part now set for November 1, 1909, at the Custom House in the City of New York, be and the same is hereby postponed until Monday, January 3rd, 1910, at 10:30 o'clock in the forenoon, at Room 515 in the Custom House, Bowling Green, New York City, New York.

(Sgd) WILLIS VAN DEVANTER,
Circuit Judge.

6544 No. 993. In Equity.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF UTAH.

THE UNITED STATES OF AMERICA, COMPLAINANT,
vs.
THE UNION PACIFIC RAILROAD COMPANY; THE Oregon Short Line Railroad Company; The Oregon Railroad & Navigation Company; The San Pedro, Los Angeles & Salt Lake Railroad Company; The Atchison, Topeka & Santa Fe Railway Company; The Southern Pacific Company; Northern Pacific Railway Company; Great Northern Railway Company; Farmers Loan & Trust Company; Edward H. Harriman, Jacob H. Schiff, Otto H. Kahn, James Stillman, Henry H. Rogers, Henry C. Frick, and William A. Clark, Defendants. } Order Postponing Date of Hearing.

The parties to the above entitled cause, having filed with the Special Examiner their agreement for the postponement of hearing in said cause until the 17th day of January, A. D. 1910, the hearing of evidence upon behalf of the Defendants, heretofore appointed for the 3rd day of January, A. D. 1910, at Room 515, Custom House Building, Bowling Green, New York City, at the hour of 10.30 o'clock a. m., is postponed until Monday, the 17th day of January, A. D. 1910, at the same hour and place above named.

(Sgd) SYLVESTER G. WILLIAMS,
Special Examiner.

WASHINGTON, D. C., *December 27th, 1909.*

6545 No. 993. In Equity.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF UTAH.

THE UNITED STATES OF AMERICA, complainant,

vs.

THE UNION PACIFIC RAILROAD COMPANY; The Oregon Short Line Railroad Company; The Oregon Railroad & Navigation Company; The San Pedro, Los Angeles & Salt Lake Railroad Company; The Atchison, Topeka & Santa Fe Railway Company; The Southern Pacific Company; Northern Pacific Railway Company; Great Northern Railway Company; Farmers Loan & Trust Company; Edward H. Harriman, Jacob H. Schiff, Otto H. Kahn, James Stillman, Henry H. Rogers, Henry C. Frick, and William A. Clark, Defendants.

Order Postponing Date of Hearing.

Upon this, the fourteenth day of January, A. D. 1910, at the request of the Defendants by their solicitor and with consent of solicitors for the Complainant, the date of the taking of evidence for the Defendants, heretofore appointed for the seventeenth day of January, A. D. 1910, is postponed until first day of February, A. D. 1910, at the hour and place heretofore designated.

(Sgd) SYLVESTER G. WILLIAMS,
Special Examiner.

6546 No. 993. In Equity.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF UTAH.

THE UNITED STATES OF AMERICA, complainant,

vs.

THE UNION PACIFIC RAILROAD COMPANY; The Oregon Short Line Railroad Company; the Oregon Railroad and Navigation Company; The San Pedro, Los Angeles & Salt Lake Railroad Company; The Atchison, Topeka & Santa Fe Railway Company; The Southern Pacific Company; Northern Pacific Railway Company; Great Northern Railway Company; Farmers Loan & Trust Company; Edward H. Harriman, Jacob H. Schiff, Otto H. Kahn, James Stillman, Henry H. Rogers, Henry C. Frick, and William A. Clark, Defendants.

Order Postponing Date of Hearing.

Upon application of the Defendants, and it appearing to the Special Examiner that the parties to said cause have agreed that the taking of further evidence on the part of Defendants may be begun at a date to be determined by the Defendants, the date for resuming the taking of evidence on behalf of Defendants heretofore appointed for the first day of February, 1910, is postponed until the fifteenth day of February, 1910, at the hour and place heretofore designated.

(Sgd) SYLVESTER G. WILLIAMS,
Special Examiner.

JANUARY 20th, 1910.

6547 No. 993. In Equity.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF UTAH.

THE UNITED STATES OF AMERICA, complainant,

vs.

THE UNION PACIFIC RAILROAD COMPANY; The Oregon Short Line Railroad Company; The Oregon Railroad & Navigation Company; The San Pedro, Los Angeles & Salt Lake Railroad Company; The Atchison, Topeka & Santa Fe Railway Company; The Southern Pacific Company; Northern Pacific Railway Company; Great Northern Railway Company; Farmers Loan & Trust Company; Edward H. Harriman, Jacob H. Schiff, Otto H. Kahn, James Stillman, Henry H. Rogers, Henry C. Frick, and William A. Clark, Defendants.

Order Rescinding Order of Postponement.

On this 22nd day of January, 1910, upon application of the Defendants by their solicitor N. H. Loomis, Esq., it appearing to the Special Examiner that the said application is concurred in by the solicitors for the Complainant, the order of postponement in said cause heretofore granted on January 20th, 1910, whereby the resuming of the taking of testimony for the Defendants was postponed until February 15th, 1910, is rescinded, and the first day of February, 1910, is set for the purpose aforesaid, at the hour and place heretofore designated.

(Sgd) SYLVESTER G. WILLIAMS,
Special Examiner.

JANUARY 22ND, 1910.

6548 No. 993. In Equity.

IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF UTAH.

THE UNITED STATES OF AMERICA, complainant,

vs.

THE UNION PACIFIC RAILROAD COMPANY; The Oregon Short Line Railroad Company; The Oregon Railroad & Navigation Company; The San Pedro, Los Angeles & Salt Lake Railroad Company; The Atchison, Topeka & Santa Fe Railway Company; The Southern Pacific Company; Northern Pacific Railway Company; Great Northern Railway Company; Farmers Loan and Trust Company; Edward H. Harriman, Jacob H. Schiff, Otto H. Kahn, James Stillman, Henry H. Rogers, Henry C. Frick, and William A. Clark, Defendants. } Order of Postponement.

On this 26th day of January, A. D. 1910, upon application of Defendants by their solicitor N. H. Loomis, Esq., it appearing to the Special Examiner that the said application is concurred in by the solicitors for the Complainant, the resuming of the taking of evidence for the Defendants heretofore, upon the twenty-second day of January, 1910, set for the first day of February, 1910, is postponed until the 15th day of February, 1910, at the hour and place heretofore designated.

(Sgd) SYLVESTER G. WILLIAMS,
Special Examiner.

6549 ROOM 720, CUSTOM-HOUSE, NEW YORK CITY,
Tuesday, February 15, 1910—10.30 a. m.

The place of hearing having been by notice to and consent of the parties changed from Room 515 to Room 720, Custom-House Building, the hearing was resumed before the special examiner, Hon. Sylvester G. Williams, at the above time and place.

Present: On behalf of the Complainant, Mr. C. A. Severance, Mr. Frank B. Kellogg, Mr. G. E. Husted; on behalf of the Defendants, Mr. Peter F. Dunne and Mr. N. H. Loomis.

J. C. STUBBS,

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination by Mr. DUNNE.

Mr. Stubbs, will you state your full name and your occupation or official position?

A. My name is John C. Stubbs. I am Director of Traffic for the Union Pacific and Southern Pacific systems; Vice-president of the Southern Pacific, Union Pacific and Short Line. I guess it is all embraced under the one title—Director of Traffic.

Q. How long have you been in the railroad business?

A. Since the early part of 1869, in the civil railroad service.

Q. Can you state in a general way your experience and various capacities in the railroad business, with particular reference to the transcontinental railroad business?

A. I first entered the civil railroad service (I had had some previous experience in United States military railroads) as what they called foreign voucher clerk, at Columbus, Ohio, with the
6550 Pittsburg, Cincinnati & St. L., as it was then known. In September I went to California and entered the service of the Central Pacific Railroad, as chief clerk of the general freight agent. Some time in either the latter part of 1871 or the early part of 1872 I was appointed assistant general freight agent, but there was no principal; I performed the duties of the general freight agent from that time on. And in a year perhaps, possibly two years, later, I was made general freight agent. Somewhere along about 1883, or 1882, I was made freight traffic manager of the Central Pacific Railroad, which, at the time, was the lessor of the Southern Pacific Railroad. In 1885, or about that time, I was made general traffic manager, giving me the passenger side of the account as well as the freight. Later I was made vice-president. In 1901 I was called to Chicago to look over the general administration of the traffic affairs of the Union Pacific system as well as the Central or Southern Pacific under the title of Director of Traffic. I have been in that employment ever since.

Q. When were the Union Pacific and the Central Pacific first connected, opened, in joint business?

A. I think the exact date was May 10, 1869. It was in May, 1869; I would not be sure as to the date.

Q. Was that the first through line of railroad between the Missouri River and the Pacific Ocean?

A. Yes.

Q. What was the next completed line?

A. The Southern Pacific had been completed to Deming, New Mexico, and the Atchison, Topeka & Santa Fe had also, west-
6551 wardly, been completed to Deming. They joined at Deming, New Mexico, in 1881; in the spring of 1881.

Q. What was the next completed line after that?

A. It was the G. H. & S. A. road. The Southern Pacific was completed into El Paso. The G. H. & S. A. (Galveston, Harrisburg & San Antonio) Railroad was completed eastwardly from El Paso and was joined at Sierra Blanca, about 90 miles east of El Paso, by the Texas & Pacific; and, immediately, the Texas & Pacific took trackage rights from Sierra Blanca to El Paso, over the G. H. & S. A. road. That took place in the latter part of 1881. It gave the Texas & Pacific its own line, by the lease, (joint use of this line) from Sierra Blanca into El Paso—all the way in to El Paso.

Q. You are speaking there of the Texas & Pacific?

A. Yes.

Q. Was there a through line, also, from New Orleans?

A. Not at that time. Later on, the G. H. & S. A. was extended farther east, and it was also, at the same time, built westwardly, from San Antonio; and they were joined in the latter part of 1882, or very soon after the first day of January, 1883, at Devil's River. That made the through line to New Orleans. The G. H. & S. A. being connected at Houston with the Texas & New Orleans road, which ran to the Louisiana-Texas line, with the Louisiana Western, which ran to a connection of the Morgan's Louisiana & Texas Railroad, at what was then known as Vermillionville but now as Lafayette, made the through line to New Orleans.

Q. Was there a through line also in connection with the Denver & Rio Grande?

6552 A. Later on, in 1883, the Rio Grande Western was completed to Ogden, Utah, to a connection with the Central Pacific at Ogden; and that, with the Rio Grande Western, the Denver & Rio Grande, and the several lines reaching eastwardly from Denver or westwardly to Denver, made another through line.

Q. When did you say that was, approximately?

A. In the latter part of 1883, or in the summer of 1883. I don't know whether I have the exact date or not. I think that is about right.

Q. In the early part of 1882 or 1883?

A. Yes. (After referring to a memorandum.) In the summer of 1883.

Q. Do you recall a connection that was made between the Southern Pacific Railroad at Needles, with any line?

A. The Southern Pacific of California, as it was then known, built from Mojave, California, to Needles on the Colorado River. Some time in 1883 it was connected there with the Atlantic & Pacific, which was built westwardly from Albuquerque. Later on, somewhere about 1884 (possibly in the early part of 1885) the Needles branch of the Southern Pacific was leased to the Atchison, Topeka & Santa Fe. In 1885, I think it was, the Santa Fe (or people that represented the Santa Fe interests, it may not have been that company) acquired the Southern California, or California Southern (it was one thing at one time and they changed it to another and that is

confused in my mind). That was built from Barstow to San Bernardino. That, I think, was sometime in 1885. That gave the Santa Fe and Atlantic & Pacific, by the use of the Needles
6553 line of the Southern Pacific to Barstow, a through line to San Bernardino. The Santa Fe then contracted with the Southern Pacific for trackage rights from San Bernardino into Los Angeles. That gave it a through line from the Missouri River into Los Angeles. Later on they built from San Bernardino into Los Angeles.

Q. Do you recall when the San Joaquin Valley Railroad was completed, and what relation that bore as a factor in the through line of the Santa Fe to San Francisco?

A. Previous to the completion of the San Joaquin Valley, the Santa Fe, by contract with the Southern Pacific—traffic contract for the interchange of business—made a through line to San Francisco in connection with the Southern Pacific from Mojave, by the use of the Southern Pacific rails from Mojave into San Francisco. That is my recollection. And I think that contract at the time gave the Santa Fe rights alternately to take trackage rights over the line from Mojave into San Francisco, upon certain notice; but they never exercised that option. Later on, in 1898 I think, the San Joaquin Valley road was constructed, by private parties, from Stockton to Bakersfield; and about the time of its completion and opening for operation, possibly before, it was purchased by the Santa Fe interests. Very soon thereafter the Santa Fe contracted with the Southern Pacific for the joint use of its line from Mojave to Bakersfield; so that connected up and gave them a through line under their own management, to Stockton, and later on they completed their line from Stockton to San Francisco Bay—practically San
6554 Francisco; so that in 1900 it had its own independent line through to the Bay of San Francisco and also to Los Angeles and Santa Monica.

Q. Now, speaking generally of the Pacific coast, what other roads were built and operated to the Pacific coast and when were they connected so as to make through lines? Let me call your attention, in the first place, to the Oregon Railroad & Navigation Company and its connections.

A. The Oregon Short Line and Oregon Navigation Company were connected at Huntington, some time in 1884, as a through line. And the Northern Pacific was completed to Tacoma in 1883—according to my memorandum.

Q. Have you a memorandum?

A. I have just put some pencil notes in my book here, not being willing to trust my memory with those things.

Q. Have you a memorandum as to the time that the Northern Pacific railroad was completed to Portland, Oregon?

A. About the same time; in 1883. I have not the date; but it was in 1883.

Q. And when was the Great Northern completed to Seattle, Washington?

A. I think in 1892.

Q. I have the memorandum here that it was 1893.

Mr. SEVERANCE. I think that is right; I think 1893 is the right year.

WITNESS. I haven't it here; I have omitted it, and I have to trust to my memory.

Q. It was either 1892 or 1893?

A. Yes, along about that time.

Q. Did the El Paso & Northeastern road form a connec-
6555 tion with the Rock Island?

A. In 1902 the El Paso & Northeastern (which is the corporate title under which that road was built) was connected with the Rock Island. That made another independent line into El Paso.

Q. Now I think that covers the ground, Mr. Stubbs, except with reference to the Canadian Pacific.

A. Well, that was completed to Vancouver in 1887; and the St. Paul was completed in 1909, and the Western Pacific quite recently.

Q. Can you state in a general way what the traffic conditions and situation were on the Pacific coast, at the time of the opening of the first through line—the Union Pacific line by way of Ogden, and how they were affected by the opening of that line, which, I think you said, was in May, 1869?

A. Previous to the opening of the all-rail route made by the completion of the Pacifics, the only means of transportation between the eastern states and California was by steamship and rail over the Panama route; steamships to Colon on the Atlantic side, and the Panama Railroad across the Isthmus to the Pacific side, and then steamships into San Francisco; and by sailing vessels around Cape Horn—called clipper ships. As the result of that the trade of the Pacific coast was done almost wholly with Atlantic coast cities. The credits and connections of the jobbers on the Pacific coast were made with the jobbers of Atlantic coast cities. The fact that there was
quite a wide difference between the cost of transportation (that
6556 is, rates and other considerations) via the Isthmus and via Cape Horn, led the merchants to divide their traffic. They would ship somewhat of every kind of their goods that were needed to complete stocks, all of their high-class, very valuable merchandise, against which interest and insurance ran heavily by steamer. The steamships ran regularly twice a month. But the service was objectionable on account of the transfer on the Atlantic side, from ship to car, and on the Pacific side from car to lighter, and lighter again to ship. But the major portion of the tonnage, especially of the heavier commodities, staple goods, went by all-sea route via Cape Horn. In that day everybody that brought goods in by sea, even from a domestic port, was called an importer. The result was that the importers had to carry very large stocks; practically a six months' stock on the sea and a six months' stock in store, depending upon the Panama service to make good any deficiencies in their orders. The service via Panama averaged about forty-five days for

freight service and twenty-six days for passenger service. The service via Cape Horn clipper ship ranged from ninety days (I believe the "Young America" made the trip once in ninety days) to one hundred and eighty days—the average about four months, one hundred and twenty days.

Q. The ninety days was a sort of record-breaker?

A. Yes. That was made only once I believe. As I say, the result of that was that these credits and connections on the part of the Pacific coast importers were made with the Atlantic seaboard cities: business was settled there. And there were large stocks carried.

6557 Goods moved in large quantities because, as I recall, the ships sailed regularly only about one every two months. When the railroad was opened, I was not on the Pacific coast; I did not get there until 1870. Of course I became familiar with what had been done, after I got there. The first tariff, as I remember, from New York to San Francisco was on the scale of $8 for first class; but in 1870 it was reduced to $6 per 100 pounds first class. That is my recollection of it. The railroads got very little business. In the first place, the merchants were wedded to their connections, their customs and traditions, and the adjustment of their business to the use of the sea. They also discovered, or thought that they discovered, that is the jobbers did, that the longer routes gave them considerable advantage; because it took a good deal of capital to carry such large stocks as was made necessary by the use of the sea routes. So when the railroad was opened, the very first proposition that they had to face was that anybody that would ship a carload could get the lowest rate at the time. The result was that they were not very friendly to the all-rail line, and they got very little business. If we reduced our rates, of course the reductions were made by sea; and it was finally decided that by an open tariff of that kind we could make no headway in developing the traffic by rail. Out of that condition what is popularly known on the Pacific coast (I do not know as it is understood here in the East) as the contract plan was evolved.

Q. Will you explain that, Mr. Stubbs?

A. Merchants had been dividing their business, as I have said. They would ship a certain portion via Panama, and a much larger

6558 part by clipper ship; and they shipped more or less by rail, after the road was opened. But the cost of transportation to the merchant differed according to the route that he used; and knowing that, he would assort his business: he would use the railroad only as a matter of convenience, and use the Panama very much in the same way, except that the Panama route took a larger share than the railroads did. But most of his goods went by sea. We proposed to the merchants that if we could have a guarantee of all their business for one year, we thought we could afford to make a rate that would make it profitable to them to use the all-rail route. This proposition was taken up, one by one, with the principal jobbers; sat down with them, examined their bills of lading, their insur-

ance policies, their invoices, so as to actually determine the cost, all things considered, of the use of the three routes and the volume of tonnage that they sent over these three routes. And upon the results of that examination we based an offer to them of an all-rail rate that we would guarantee for one year. I think that explains it in a general way. One by one the principal jobbers fell into that; at San Francisco and at Sacramento, and I think all the principal importers of Portland—two or three did, I know. Before we got through with it we practically had all the importers under contract, except one firm in San Francisco which never came in. These contracts were individual. They showed different rates on the same article, for the same service, for different merchants; because we found the widest sort of discrepancy by the ships, and we had to deal with each merchant by himself considered. But after we had operated for
6559 possibly a year, and got the majority, if not nearly all, of the merchants under contract, we then took up these contract rates and harmonized them, and made a common list, and published that common list of rates; and thereafter that common list of rates was applied to everybody—large shipper or small shipper—who would undertake to enter into a contract to ship exclusively by rail for one year; and it was published. At the same time there was another general tariff very much higher—in fact the regular tariff that was in existence before we began this contract plan, which was applied to the shipments of merchants or anybody that was not under contract. My recollection is that this contract plan began in 1878. On account of the total destruction of all our records, I haven't any means of determining just what the date was; but that is fairly near the fact.

Q. You refer to the destruction of our records in the San Francisco fire of 1906?

A. Yes. And, unfortunately, the Union Pacific records have been destroyed, too. I think it ran until after 1883, more or less. Of course this was initiated over the Union Pacific and Central Pacific line—the original line. As the Santa Fe line, and the Texas & Pacific line, and the Rio Grande line, were respectively opened up, they adopted the contract plan. But when these lines multiplied, it became burdensome; we couldn't handle it very well; and it became obnoxious to the shippers, because the only way it could be handled was to bill the goods at the general tariff and refund by voucher the difference between the general tariff and the contract tariff.
6560 So along about 1883, possibly 1884, it was abandoned. But this list of contract rates, which I have described to you, became the basis for the open rates. I might say it was practically adopted, although there may have been eliminated some of the very low rates that were taken under contract, because of the compensation derived from the higher class of goods which the same merchant would ship.

Q. Mr. Stubbs, was the development of manufacturing industry west of the Allegheny Mountains a factor at all in this connection?

A. I might add that what I have explained was not the whole and sole influence in requiring the abandonment of this contract plan. In the meantime the rapid growth of manufacturing industries west of the Allegheny Mountains, the opportunity afforded by the all-rail lines for the Pacific coast merchants to make connections in that territory, very much increased the proportion of the tonnage, or shifted a large share of the tonnage that originally was produced on and shipped from Atlantic coast cities to the more westerly points. I might illustrate by saying I think I can recall that, at the outset, all the stoves that went to San Francisco went from Troy, N. Y.; and it was not long after the opening of these roads until they began to ship from the west, until now they mostly go from St. Louis. And the same thing is true of boots and shoes, and very many things. That reduced the force of the sea competition on a very large proportion of the traffic that was shipped to the coast, where formerly the sea competition was absolutely controlable. Of course, the further west we got from the Atlantic seaboard, the less forceful,
6561 although it was influential in determining the rate—the less forceful the sea competition was.

Q. In what year was the so-called "Sunset Route" opened?

A. In the early part of 1883; I think in February.

Q. Will you explain to us what that Sunset Route was, and, in a general way, its effect on the business?

A. "The Sunset Route" is the term applied to what we call the Southern Pacific's line made from New York to San Francisco. Originally, it was made by the use of the Morgan Steamship Line of vessels from New York to New Orleans; Morgan's railroad to Lafayette; and, as I have described it, the Louisiana Western, the T. & N. O., the G. H. & S. A. and the Southern Pacific. That was called the "Sunset Route"—an advertising feature. Those lines were connected up, I think, at Del Rio, in the latter part of 1882, and the roads were ready for operation very soon after the first day of January, and the arrangements were completed for the through service, and I think the line opened in February.

Q. How did the handling of the business by the Sunset Route at that time, in reference to the transportation of freight and the matter of accounts and claims, compare with conditions then obtaining with the all-rail service?

A. The time for opening the Sunset Route was very propitious. I think it owes its initial success to the conditions that existed at the time. Under this contract plan that I have described, all the business was overcharged; not only that, but the lines east of Chi-
6562 cago, particularly, and, in some measure, east of the Missouri River, looked with some—not disfavor, but they lacked interest in the California business; it was comparatively small; they subordinated it to their own service; that is, the trunk lines would put it aside in favor of their business, which they considered to be more profitable, for Chicago and the middle west. The Iowa lines, as we called them, were not so bad, but they did much the same thing. So

the service was very bad. The movement ranged from 30 to 45 days. On much of the freight we didn't do as well as the Panama Steamship Line did. And, as I stated, it was all overcharged, and the people were very much exasperated. They had gotten sort of used to the contract plan, and had found holes in it, and were ready to smash it; but they were aided in that desire and purpose by the bad service that was being performed by the all-rail routes. When the Sunset Route was opened, no one had very much fear of a part water and part rail line. And it was opened at lower rates than the all-rail rates. The all-rail lines did not pay any attention to it, but when the arrangements were completed for the opening of that line, and the Southern Pacific officer went back to San Francisco, he told the merchants there that he had been cussed and blamed for the bad service on the all-rail line, and he denied any responsibility for it, and that he now had a route under one control from New York to San Francisco and he was going to prove to them that what he told them was true; asked them what service would be satisfactory to them, and they told him what they thought, that it was not so much quick time, but they wanted regular time, so that when the
6563 goods left New York they would know within a day of two when they would be on their shelves. So the line was opened, and they were fortunate enough to make what was then extraordinary time—short time; to-day it would be called extraordinarily long time—18 days from New York to San Francisco, and 22 or 23 days in the opposite direction. Overcharges were paid promptly, and loss and damage claims were settled immediately; and the merchants were tickled to death. The result was, it was not very long before a very large share of that business was on the Sunset Route.

Q. By the way, that matter of loss and damage claims, had that been a source of objection and irritation so far as the all-rail lines were concerned?

A. A very great objection; very serious. It has been always, and is today. There isn't anything that irritates merchants so much as delay in settlement of their claims.

Q. What was the effect of the Sunset Route under one management, in dealing with friction of that kind?

A. The Sunset Route, as you might infer from what I have said—the rail line west of San Antonio and practically west of Houston was new, and there was very little business on it. And compared with what it is today, the Morgan Line from New Orleans west was pretty near new, and very little business on it. So the New York business that was taken for California, practically had a free, open, uninterrupted or undisturbed movement from New Orleans to San Francisco. The cargo was gathered on the wharf in New York, and the ship arrived in six days at New Orleans, as against some
6564 times six days from New York to Chicago. The ship arrived in the morning; the cargo was on the cars that evening and on its way west; so, without any extraordinary speed, the free course, lack of interruption, enabled a 16 days' time without any extraor-

dinary expense. I think those were the conditions that enabled us to perform the service with such facility. I am not sure that I have not forgotten your question.

Q. I was calling attention to the circumstance that the Sunset Route was under one management, from end to end.

A. Well, the several links in the line, like the Morgan Railroad & Steamship Line, Louisiana Western at the outset, T. & N. O., G. H. & S. A., and the Southern Pacific west of El Paso, had separate operating officers, and very shortly the entire line east of El Paso was put in under one general manager; but the traffic, so far as the through traffic was concerned, was under one officer. And the effect of it was, as far as this through business was concerned, to have practically a solid line from New York to San Francisco; all the parts were cohesive, and all the officers of the several constituent roads were sympathetic, really interdependent, in their relation to the common owners; so that, so far as this through business was concerned, these lines were operated as one line, just as effectually as the several divisions of the Northwestern or the Union Pacific, over which a division superintendent presides, is operated as a through line.

Q. How were the manifests of ships sent to San Francisco?

A. The manifests were sent by rail. The manifests of a car leaving New York today would be in San Francisco about the
6565 time that the ship arrived at New Orleans. That was quite an advantage.

Q. And how was the California cargo loaded in respect to the ship, and how was it handled in respect to the trains?

A. The ships landed at Algiers, which is opposite New Orleans. The California cargo was loaded so as to go out of the ship first. It was loaded in cars; always a trainload, sometimes two or three; and the trains at that time were run solid through to San Francisco. The paucity of the business on the rail lines made that possible; I mean made it as little expensive to do it in that way as it would be to do it in another way—as to mix the cargo with local freight.

Q. What was the effect of the unity of the management on the Sunset as against the diversity of the management on the all-rail service, in accomplishing prompt and satisfactory settlement of claims made by shippers?

A. By the Union Pacific and the Iowa lines and the trunk lines, you couldn't settle a claim for overcharge (could not safely do it) or for loss and damage, without first tracing for the purpose of locating the responsibility for the loss or for the damage, and getting authority, except for this part of the overcharge which was created by the difference between the contract rate and the open rate. It took some time—I think the average time was about six months—to get a claim for loss or damage settled; sometimes it was two years before we could get it settled.

Q. How was it on the Sunset in contrast with that?

A. It was settled immediately.

6566 Q. To what extent did business move by the Sunset Route, as you have described it?

A. There was a very considerable share of the New York business that moved out by the Sunset Route; so much so that in the summer of 1903 the trunk lines, especially, awoke to the fact——

Mr. SEVERANCE. You do not mean 1903, do you?

WITNESS. I mean 1883.——awoke to the fact that they had lost considerable business, and the California business began to appear more valuable in their eyes than they had ever pretended that it had been previously; and they protested against the differential rate—the lower rate which was being made by the Sunset Route. That lower rate was founded upon the fact that there was insurance for the sea-voyage to be considered. The result of the complaint of the trunk lines was (and they were strong enough to make it almost an order) that, after conference, the Sunset Route adopted the all-rail rates—the same rates as were adopted by the all-rail lines, and issued an insured bill of lading. But that did not for the time being very much affect the business which had settled on the Sunset Route; the Sunset continued to take quite a considerable portion of that business for some time.

Q. I think you fix the year 1886 or 1887 as the time when the Atchison, Topeka & Santa Fe completed arrangements for a through line to San Francisco?

A. It was in 1885 or 1886 when we made this what we call the connecting line arrangement, prorating arrangement, with
6567 them after they had acquired by a lease and purchase contract the ownership or control of what was then the Southern Pacific's Needles branch.

Q. Do you recall the effect of the completion and operation of the Atchison line through to San Francisco—the effect in 1886?

A. Immediately after they had established this through line in connection with the Southern Pacific, with the option to take trackage rights (which they never exercised), they demanded a share of the through traffic, and wished the other lines that were concerned to guarantee them that amount. The other lines thought that their demand was too great. The result of it was the freight war of 1886, which lasted several months and was a very severe one.

Q. Will you explain to what extent, and how and why it would be the fact, that the lines terminating in California, the Southern Pacific in the first instance, subsequently the Atchison upon its advent into California, came to dominate the transcontinental rate situation on California business?

A. From the very beginning of my connection with this business, which was in 1870, by common consent (I don't recall and do not think there was ever any formal agreement either oral or in writing) the handling of that business, suggestion as to rates, nomination of the rates, between Pacific coast points and all eastern territory, was

practically left with the Pacific lines. As long as the Union Pacific and the Southern Pacific roads constituted the only line west of the Missouri River, these rate conditions were handled jointly by the officers of the Union Pacific and the Central Pacific. After
6568 the Santa Fe was completed in 1881, the result was that practically the matter was left in the hands of the Central Pacific people. At that time they had the deciding voice; and in fact that did continue up until this time that I speak of, when the Santa Fe got into San Francisco with its own line, or into Los Angeles with its own line. After that time the Santa Fe had just as much voice in making the rates to and from California, as the Southern Pacific or the Central Pacific; but there has been no time since 1881 when any rate, all-rail, could be made to California without the consent of the Central Pacific, the Southern Pacific, or the Atchison, Topeka & Santa Fe. I would like to make an explanatory statement. I sometimes use the words "Central Pacific," and sometimes "Southern Pacific." It may confuse you. Up until 1885 the Central Pacific was the lessee of all these lines, and the business was conducted in the name of the Central Pacific. In 1885, after the organization of the Southern Pacific Company, it took all of the lines and the Southern Pacific was the one. It was "Southern Pacific" after 1885, and "Central Pacific" before. If my use of those terms has at all confused you, that will straighten it out.

Q. The Central Pacific people had the line from Ogden to San Francisco, and from San Francisco to El Paso and New Orleans; the constituent lines had various names, for instance, the Southern Pacific Railroad of California, the Southern Pacific Railroad of New Mexico. These things are a little confusing, but that was the situation?

A. That was the situation. There was the Southern Pacific of California, the Southern Pacific of Arizona, the Southern Pacific of New Mexico.

6569 Q. Prior to the advent of the Atchison, Topeka & Santa Fe into California, the Texas & Pacific, which you speak of, connected with the Central Pacific line at El Paso, and the Denver & Rio Grande at Ogden; they were merely connections; they did not have any lines into California; that is the fact, is it not?

A. No, nor did the Santa Fe. They were connections with either the Central Pacific Railroad at Ogden, or the Southern Pacific Railroad at El Paso.

Q. Now, you have said that the Central Pacific or Southern Pacific (I do not care what you call it) and the Atchison were the dominating factors in the transcontinental rate situation. I think there is some reference in the record to what is referred to as the "Transcontinental Freight Bureau." What part did the Transcontinental Freight Bureau play, so far as the Southern Pacific and afterwards the Atchison were factors in the California rate situation?

A. The Transcontinental Freight Bureau was a bureau of which all these lines west of the Missouri River were members. It was

adopted for co-operation on questions of classification and various questions that would arise. When it was in session, the rate questions were usually submitted to vote and decided by vote; but, notwithstanding that, even during the sessions of the Transcontinental Freight Bureau, there has never been a time that I know anything about, up to a quite recent time, when any rate measure would pass against the objections of the Santa Fe and the Southern Pacific. But if either one of them voted for it, either one of them had the power to make it effective.

Q. As a matter of fact, could any through all-rail rate be made from the Missouri River, or east, to California, without the consent of the Southern Pacific, in the first instance, and subsequently, upon its advent, the consent of the Atchison, Topeka & Santa Fe?

A. No.

Q. Passing from the traffic term to the mere physical property, could any all-rail line be made into California except over the rails of the Southern Pacific or of the Santa Fe?

A. Without construction?

Q. Yes.

A. No.

6570 Q. Mr. Stubbs, referring again to this matter of the all-rail rate to points east of the Missouri River, to what extent—and this may be repetition, for you have gone into the influence of the Southern Pacific and the Atchison, Topeka & Santa Fe as factors so far as eastern connections are concerned, but I will take the liberty of asking you the question: whether an all-rail rate could be made to or from a point east of the Missouri River without the consent of one or more of the connections of the Southern Pacific or the Atchison, Topeka & Santa Fe, and how is that related to the situation as you have stated?

A. The Santa Fe forms a line under one management from Chicago and could do as it pleased—it didn't have to ask anybody; the Southern Pacific had its own line all the way through to New York and could do as it pleased.

Q. Could the Union Pacific, the Rio Grande line, the Rock Island, or the Texas & Pacific, of its own motion or by independent action, make such through rates as you have been speaking of here?

A. No.

Q. Could the Union Pacific, practically speaking, make such a through rate by the use of the rail line to Portland and the steamships through the ocean to San Francisco? I speak now of the O. R. & N. steamship lines from Portland to San Francisco.

A. Why, if they would disregard every consideration of profit or self interest, of course they could make the rate. I suppose that is what you mean by saying could they practically do it.

Q. Yes, sir.

6571 A. I simply wanted to make it so my statement would be well protected—why it was an impracticable route. They could not do it in this sense: that the Union Pacific's own separate

and individual interests would restrain it from doing anything of the kind, would render the doing of anything of that kind a costly thing. It would cost more than it would make, in other words.

Q. It is one thing to make through rates on paper and another thing to make practical and operative through rates?

A. Yes. And that route for business on and east of the Missouri River, so-called route, rail to Portland and steamer from Portland to San Francisco, has never been anything but a paper route.

Q. What was the influence of the Panama route, the clipper ships via Cape Horn and, later, the Tehuantepec route upon these rates?

A. You mean the rates to the coast?

Q. Yes, sir.

A. They practically controlled them in the sense that whatever rate was made all-rail must be made with due regard to the cost of the movement via the sea route.

Q. By the way, Mr. Stubbs, how about the comparative influence of the Panama route and the clipper ships? What were the sailings of the Panama route, ordinarily? About how many steamers a month?

A. The Panama route was, according to my recollection, never more than three steamers a month; ordinarily, two steamers a month each way. The clipper ships, sailing vessels, I think I have stated, were every two months, sometimes oftener, but the undertaking, according to my recollection, was to have regularly a vessel on there every sixty days—sometimes they would have more. Later on, when the American-Hawaiian Steamship Company was put on, following the route via the Straits of Magellan, I think they undertook to despatch one steamer a month. That is my recollection.

6572

Q. As I understand you, then, the clipper ships around the Horn were superseded by steamships through the Straits of Magellan?

A. Yes; in 1900 I think; somewhere along there.

Q. The Tehuantepec route which you speak of——

A. Well, that was later on. Afterwards, the Mexican Railroad across the Isthmus of Tehuantepec was constructed, and then the American-Hawaiian Steamship Company contracted with that line to furnish its service, and they abandoned their Magellan route, and now work in connection with the Tehuantepec.

Q. How has the Tehuantepec figured, as a comparative factor, in comparison with the earlier Panama route and the ships via the Horn?

A. I think it has had the effect, relatively, of carrying more tonnage that way. It is pretty difficult to answer that question because the general volume of tonnage has increased so largely, and I would not like to be considered as positive or conclusive in making that answer because we do not have the best evidence in the world as to just what tonnage they are carrying; but my impression is that there is more tonnage, relatively, moved via the Isthmus of Tehuantepec than there was previous to the opening of the line via Panama and the Straits

of Magellan. Mr. Spence, when he goes on the stand, can give you a better estimate of it than I can.

Q. You spoke about the Northern Pacific and the Great Northern. What was the effect of the completion of those roads so far as California business was concerned?

A. Not noticeable.

6573 Q. What Pacific coast business was it that the transportation facilities of those companies were particularly addressed to?

A. North Pacific coast; that is represented by Portland and Tacoma and Seattle. I think there is also a town out there called Spokane.

Q. That is a little in from the ocean. What has been the effect of the Canadian Pacific on this California business?

A. Not appreciable. There was a time when the Canadian Pacific made a dash at it by undertaking to carry a differential of ten per cent in the rate; that is, they made their rates to San Francisco ten per cent lower than the all-rail rates, the rates of the other lines, and they took some business, not a very considerable amount, but were called upon by the other lines to withdraw their differential, and the matter was submitted to arbitration. I believe that is in the case; isn't it?

Q. Somewhat extensively, I think.

A. They withdrew their differential, and since then they have not been a noticeable factor in the business.

Q. I understand that the forensic effort of yourself as advocate in that arbitration is in this record, Mr. Stubbs.

Mr. SEVERANCE. And sworn to as true.

WITNESS. Yes, I think Bro. Severance had some fun with me on that.

Q. What was the situation of the Union Pacific Railroad proper from Missouri River to Ogden and its relation to California

6574 business? Taking its points of origin on the River, how did it run?

A. The Union Pacific has had a line of late years from Kansas City through Cheyenne and from Omaha through Cheyenne to Ogden, Utah. At Granger it connected with the Oregon Short Line, which it owned. At Ogden it connected with the Central Pacific. The Central Pacific formed its line for California.

Q. Describe in your own way, Mr. Stubbs, the territory which the Central Pacific or Southern Pacific, as they have been termed here, opened up to the Union Pacific by that rail connection at Ogden to California?

A. The Central Pacific runs from Ogden through Sacramento and Stockton to San Francisco and also to San Jose—the original Central Pacific line. At Roseville Junction, which is eighteen miles east of Sacramento, there runs north the Central Pacific's California and Oregon line up through the great Sacramento Valley, a very productive valley, on the east side of the Sacramento River. At Sacramento it connects with what was originally known as the California Pacific, a road that serves the southern part of the Sacramento Val-

ley, reaching the Bay of San Francisco—it is really the Straits of Carquinez at Benicia, and also on the other side of the mountain there at Vallejo, where it connects with the very productive Napa Valley, running up to Calistoga and also across to the Sonoma Valley. The original line from Sacramento continues then down to Stockton, and a few miles west of Stockton, at Lathrop, it connects with the San Joaquin division. That is a line up the San Joaquin River, on the east side, to Goshen, and there connects
6575 with the Southern Pacific, which continues on through Bakersfield, over the Tehachapi, to Los Angeles. A few miles beyond Lathrop, on the west side of the San Joaquin River, another line goes up the San Joaquin Valley, serving the west side of the San Joaquin Valley, connecting with the main line which I have described, the southerly line, at Fresno and Tulare.

Q. Is that the line that diverges at Tracy?

A. At Tracy, yes, sir. Then it continues on down and crosses the original Western Pacific, crosses through the Livermore Pass into the Alameda Valley, a very rich valley, where its original San Jose line at Niles deflects and goes south to San Jose, and it also continues in to Oakland. At Tracy it also has a line following the river and the Bay of San Francisco into Oakland. In other words, the Central Pacific and its connections opens the entire productive territory of California to any connection that it has at Ogden.

Q. Can any of this interior country that you have described be reached by the sea through Portland or Puget Sound or by the other sea routes?

A. Except to the points I shall name, not without the use of either the Atchison, Topeka & Santa Fe rails or the Southern Pacific rails. The exception points are points that are on the Bay of San Francisco, the City of Stockton, which is on the San Joaquin River, to which there is limited steamer transportation, and the City of Sacramento to which there is steamboat service, and possibly Marysville. I doubt very much whether the Feather River is navigable to Marysville now, but it was at one time.

Mr. DUNNE. I think not.

6576 Q. What rail connection did the Union Pacific have or has it ever had in this territory?

A. The Central is the only connection it had at the time we are talking about—1901. I suppose today it might make a connection with the Western Pacific.

Q. What was the position of the Union Pacific with respect to through rates, through billing, through cars, through train service, into this California territory?

A. Absolutely dependent upon the Central Pacific lines.

Q. Its position was, then, that of an intermediate carrier?

A. Of an intermediate carrier,—connection of this line. It seems to me that is obvious.

Q. Will you please describe the Union Pacific line, or so called line, this paper route that you spoke of, by way of Portland and the ocean to San Francisco?

A. The Union Pacific line from Omaha to Granger, the Oregon Short Line, which is owned by the Union Pacific, from Granger to Huntington, and then the O. R. & N. railway from Huntington to Portland, and what was, at the time of this so-called merger, the O. R. & N. steamers running between Portland and San Francisco. The service, of course, over the all-rail line was daily. The service between San Francisco and Portland was, I think, a steamer every five days. The distance from Omaha, the eastern terminus of the Union Pacific, is greater to Portland over the line that I have described than the distance from Omaha to San Francisco over the Union Pacific and Central Pacific which I have described.

6577 The freight undertaken to be moved via Portland to San Francisco by whatever route it chooses, when it gets to Portland has yet to travel more than one-third of the distance from the starting point to San Francisco via the Union Pacific. It takes more time, under ordinary conditions, that is, equal conditions by both rail lines, to get into Portland than it would to get it to San Francisco. It would have to await at Portland the arrival of a steamer because the steamer goes only every five days, against a daily service all-rail into San Francisco; subject to the additional transfer, subject to the perils of the sea, which it would not be by the all-rail route; the disabilities of that line as compared with the all-rail being probably represented by five days additional service or additional time employed. I think that is rather less than more than the average additional cost. Additional handling, which while it may be said is entirely at the cost of the carrier, is a thing that the shippers take into account because they would rather have their goods in good condition than to have a claim. And these disabilities are common and well known and are such that no shipper would use that line without some compensation, and there is no way to compensate, that I know, anything about, except in the rate, and of course the competitors of the Union Pacific for San Francisco business would not permit it to make a lower rate by that route than they make. In other words, it is practically a no thoroughfare—has been, generally recognized so.

Q. Do you carry in your memory, or have you a memorandum of, the year when the Union Pacific operated the Short Line and the O. R. & N. to Portland as part of its system?

6578 A. I think in 1888 they thought they had them, but there was some court proceeding which intervened, so that in 1888 the Navigation Company went into the hands of the Receiver. I think it did not get out of the hands of the Receiver, so that the Union Pacific got practical control of it, until along about 1896—it may have been 1898, but in the meantime, during that period, I think it was recognized and treated, so far as its relations to the public were concerned, as a solid line, Union Pacific line from Omaha to Portland.

Q. If it be assumed that the Union Pacific did acquire practical control of the Short Line and the O. R. & N. as early as 1889, is it a fact that in 1889 and prior thereto the O. R. & N. had been operating these through steamers between San Francisco and Portland?

A. Of course I had no connection with those properties at the time, but I know that the O. R. & N. did operate steamers between San Francisco and Portland at that time, and has in fact (either the O. R. & N. or its predecessor) all the time since I know anything about this business until the present organization was made.

Q. You have stated here, Mr. Stubbs, that you have been in the railroad business in California from 1870. I think that is the year you gave. Have you ever in your long railroad experience known that route by Portland and the ocean to San Francisco to be operated as a through route and worked as a through route?

A. My answer is no. Perhaps I had better explain. Of course it is pretty well known that I have been practically at the head of the freight department for the Central Pacific interests since, cer-
6579 tainly, 1872, and perhaps more intimately associated and connected with the industrial development of California than any other railroad man in the country. In all that time I have never known any business to move or to be worked through the influence or endeavors of the Union Pacific, even of the Union Pacific's own representatives in San Francisco, via the Portland gateway to or from points on or east of the Missouri River. Of course I was alert in watching the interests of the Central Pacific as a connection of the Union Pacific, but it was so manifest to me that the Union Pacific interests lay in connection with those of the Central Pacific that I do not think I ever apprehended any attempt upon their part to use the other lines for San Francisco business. There may have been sporadic cases when business moved that way; there may have been an occasional jag of freight gone that way for some reason or other, but never had I occasion in all this time to enter a protest or to inquire or to say anything about that line to a Union Pacific officer. I was quite certain in my mind that it would not be a profitable venture upon the part of the Union Pacific, and I never had any reason to believe that the Union Pacific officers did not hold the same view.

Q. Did the Southern Pacific have any rail connection at Ogden besides the Union Pacific?

A. As I have explained, the Rio Grande Western road connected with the Central Pacific in 1882 (I think it was) at Ogden.

Q. Whereas the Union Pacific had the rails of the Central Pacific, and the rails of the Central Pacific alone, upon which to move
6580 into California, the Southern Pacific had two connections at Ogden—the Union Pacific and the D. & R. G.—as far back as 1883; is that correct?

A. That is true.

Q. What effect, if any, would that situation have upon the attempted use by the Union Pacific of the alleged Portland route? If I were to assume hypothetically that the Union Pacific should really

and substantially make the attempt to use that route, what effect would the situation at Ogden have upon those conditions?

A. In the past?

Q. Yes.

A. Why, very naturally the officers of the Central Pacific Railroad and the Southern Pacific Company would have resented it, would rightfully have assumed that the Union Pacific was undertaking to divert traffic from the Central Pacific, and in every way that they knew how, if they could not prevail upon the Union Pacific to stop it, they would have endeavored to counter upon the Union Pacific. They would have diverted traffic from the Union Pacific. They were not dependent upon the Union Pacific. The Rio Grande had very powerful connections at Pueblo and Denver, such as the Missouri Pacific, the Chicago, Rock Island and Pacific, the C. B. & Q., the Santa Fe, all of whom, so far as Colorado common points were concerned (which would represent one-half of the service of the Union Pacific to Ogden) were eager for this business and of course would have cooperated in any endeavor to get the larger portion of the business that way. The very large territory, locally, which I have described, productive territory, consuming territory, of California, of course would have been closed to the Union Pacific road, except upon what they could have done by solicitation against the active en-
6581 deavors on the part of the Southern Pacific or the Central Pacific to send it the other way. I don't know whether that makes it very clear to you, but in my own mind I think that statement itself would be sufficient to illustrate to any traffic man that they would have sewed the Union Pacific up very quickly.

Q. Now let me see if I get your mind. Do you mean that these conditions would result even though the Southern Pacific did not take out the through route with the Union Pacific, did not close the gateway, did not disturb the status quo at all so far as through arrangements with the Union Pacific were concerned? Was the Southern Pacific sufficiently influential to deflect the business without extinguishing the through arrangement with the Union Pacific?

A. No doubt about it. Perhaps I had better tell you a story.

Q. With Judge Williams permission you may do so.

The SPECIAL EXAMINER. If the Government has no objection we will listen to it.

Mr. SEVERANCE. I am in favor of his telling the story. I always enjoy Mr. Stubbs's stories.

The WITNESS. After I came to Chicago and was put in charge of the Union Pacific system as well as that of the Southern Pacific, I was in New York and had occasion to call on Mr. Gould, president of the Missouri Pacific, who at that time had acquired the Rio Grande. I had very pleasant relations with him. When I sent in my card he invited me to come into his office at once, and when I got in there I found the traffic officers of the Rio Grande with him.

They were discussing how the relations of Mr. Gould to the
6582 Rio Grande could be made (lawfully of course) useful to

the Missouri Pacific, and suggestions were made that they could arbitrarily divert the traffic to the Missouri Pacific. They went on discussing it in my hearing as though I were not present. I said, "Mr. Gould, pardon me, I would not do it that way if I were in your place." He said, "How would you do it?" I said, "I would not say anything about it publicly; I would not make any public demonstration at all; I would just tell these boys that you would like to have that business go as much as possible over the Missouri Pacific line." He looked at me and said, "By God, that's what you have been doing to me by Ogden, isn't it?" Now that is all that was done in that way. It only illustrates the value of the sympathy and the cooperation of a connecting line. It can hardly be expressed in language, hardly be made manifest to a layman, one who is not acquainted with the practical operation and close relationship between shippers and carriers. But possibly it would be a sufficient answer to your question to say that I think there would be no doubt to any traffic officer in the room or anywhere, as there is no doubt in my own mind, that under conditions which have been described if the Union Pacific had undertaken to divert traffic for San Francisco and San Francisco Bay, which is the only traffic they could have used the Portland route for, under these peculiarly unfavorable conditions undoubtedly the Southern Pacific Company could have made it so costly to the Union Pacific, and in a lawful way, too, that they would have been sorry that they had any such line as a
6583 steamship line from Portland to San Francisco. Now I not only think so, but I think the Union Pacific officers thought so—knew so, and that is the reason they didn't try it.

Mr. SEVERANCE. I suppose it is hardly proper for you to give your guesses as to what was in the mind of somebody else. I do not like to interrupt you because your testimony is very interesting.

WITNESS. Well, that is all right.

Mr. SEVERANCE. It is hardly testimony.

WITNESS. I don't want to say anything improper; you know that.

Mr. SEVERANCE. You ought not to.

WITNESS. It seems to me, if you please, that it is germane, because with my experience there in San Francisco for this long period, and never having had occasion to resent or object to the use of that line, certainly I have the right to say that these gentlemen did not consider that.

Mr. SEVERANCE. You rather objected to your argument in the Canadian Pacific matter being regarded as testimony in this case; you said you were an advocate. So I was merely suggesting you should not be an advocate here, but you should confine yourself to the facts.

WITNESS. My objection didn't go with you, did it?

Mr. SEVERANCE. No; it didn't.

Mr. DUNNE. In fact, I think the record ought to show that Bro. Severance—I won't say that he was unprofessional, because he never is, but he was singularly lacking in amenity to pull the argument of

opposing counsel upon him as testimony in a law suit, and I will dismiss it with that observation.

6584 WITNESS. Severance is a good fellow.

Mr. DUNNE. But I will ask you this question in view of Bro. Severance's objection: If it needed any clairvoyance to read the mind of the Union Pacific officers on the situation you have been describing?

WITNESS. Not a bit.

Q. Did the Canadian Pacific endeavor to use this water route via Vancouver? You said that it did make some effort in that direction. Was there any important difference between the Union Pacific and the Canadian Pacific in relation to that business, so far as the Canadian Pacific having no available rail connection is concerned?

A. A very substantial, not to say vital, difference. The Canadian Pacific had no other way to get in to San Francisco or to California but by the use of the sea route from Vancouver. The Union Pacific had the very best way that was open to any line to get into San Francisco Bay and the City of San Francisco and to all the valuable and populous territory, productive territory, that I have described, in addition.

Q. Did the Northern Pacific or the Great Northern work that through line, rail and steamship, via Puget Sound, to San Francisco on this business in any substantial or appreciable sense?

A. I think the Northern Pacific and the Great Northern have had through rates into San Francisco in connection with the Pacific Coast Steamship Company. Whether they have ever worked it or made any very ernest endeavor to move business that way, I think is best shown by the fact that they have never taken enough of the business that way to attract any attention or call for any pro-

6585 test or objection. That is my observation of the matter.

Q. Can you say, so far as that business is concerned, that the Great Northern and the Northern Pacific have never in any substantial sense done the business?

A. I meant to convey that conclusion by what I said, but, mark you, I am referring now to what we call the movement to or from the Missouri River or points east of that, including St. Paul.

Q. That is what I have in mind. Will you state, Mr. Stubbs, in your own way, the matters of fact which would illustrate as reasons the non-participation of those northern lines in any substantial sense in this San Francisco or California business?

A. Well, of course I suppose I might be hauled up by Bro. Severance if I expressed myself fully on that, but I will try to see what I can do for you.

Q. I am only asking you to state matters of fact.

A. In the first place, they never have taken any noticeable tonnage that way. Whether they have worked for it with the enthusiasm and endeavor that would follow a belief that they had a practicable route or not, I can only infer from the fact that they have not taken much business, and that they knew that as well as anybody else, and they

had not made much effort to do it simply because they thought the effort would be unavailing.

Q. By the way, if you will allow me to interrupt you: Is there any consideration germane to this present subject matter in reference to the operation of steamship lines out of those three northern ports? Take Vancouver, Seattle and Tacoma. Could a single steamship line adequately serve the three ports?

6586 Mr. SEVERANCE. What points do you mean, Mr. Dunne?

Mr. DUNNE. San Francisco and California business. I am assuming that there were three lines—the Canadian Pacific, the Great Northern and the Northern Pacific. Whether the business that would filter through those ports down to San Francisco would be sufficient to support three steamship lines, one for each port.

A. I suppose you are contrasting this with what the Sunset Route has done?

Q. Yes, I mean to take that up.

A. Well, of course, there are three ports on the Pacific coast and they are all served by three strong, well-officered, well-managed lines: that is, each of them is served by one strong, independent and well-officered line—Vancouver by the Canadian Pacific, Seattle by the Great Northern and incidentally by the Northern Pacific, and Tacoma by the Northern Pacific. I assume that if one of those lines operated a steamship line from one of those ports to San Francisco that the others would feel compelled to put on steamship lines to operate from their port. Manifestly, there is not business enough there to support three steamship lines. Secondly, they could not very well combine or run one steamship line that would serve all three ports.

Q. Why not?

A. Because they are competitors, all fighting for the business, and because the steamship would have to make all three ports in order to load cargo. I don't know that I need elaborate that. It seems to me almost anybody could see that that was almost impracticable.

Their takings of business would be limited almost wholly to
6587 what business they brought in from the east and for San Francisco Bay points. The steamship line would depend practically on their transcontinental service for support. I can say from what I know of the business that it would not support even one steamship.

Q. Now take the suggestion you have made, of a comparison with the Sunset Route. That route was also part water and part rail. Will you explain in your own way the operation of the Sunset Route as the taker of a substantial tonnage between the seaboard and California in contrast with the non-participation of the lines part water and part rail through the Pacific Ocean gateway?

A. Why the Sunset Route part water and part rail was comparatively successful and why the others via Puget Sound did not meet it?

Q. Yes. I would like to have you go on in your own way and explain that.

A. It seems to me it is obvious. In the first place, the Sunset Route mixed water and rail line, as has already been explained, is a solid line, a line that so far as traffic and operating conditions are concerned, as I have explained, is under one management and control. In the second place, the steamship service is the initial service, and the initial point is the City of New York, which, with the communities within lighterage limits, furnishes by far the most productive port, from the point of supply, in the country, if not in the world. The ships moving from New York to New Orleans would draw from this immensely productive market or these productive markets not only traffic for San Francisco and San Francisco Bay points, but a very large tonnage for New Orleans, Louisiana, Texas, even Oklahoma, Mississippi, southern California as well as intermediate points between southern California and San Francisco and all of the interior of California, that I have described. They all contributed to the tonnage that would safely, economically and profitably to the carrier be moved by the steamships from New York to New Orleans. The result was that always three ships a week, according to my recollection, and sometimes four, were despatched, and there have been seasons when there has been a ship despatched every day, I believe. The ships, as I have explained, were loaded just as a car is loaded for distribution of local freight. The freight that must come out first is the last put in; the freight for California was loaded in last and came out first, and so the opportunity was given for the prompt and expeditious movement over the line. Now it seems to me that that would be obvious to anybody as a distinct and complete answer to any suggestion that because the mixed water and rail line via New Orleans or Galveston was measurably successful, that a mixed water and rail line via Puget Sound ports, with the steamship service on the delivering end of the line, would be equally successful. Now, there is another feature to this; I think I gave it already. The Southern Pacific Company, the Central Pacific Company, is the home line, well understood. It is like the Northern Pacific at St. Paul. Anybody knows that—you know that; anybody that goes into St. Paul——

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Q. Now don't try to represent Bro. Severance's mind or you will get into trouble. Go ahead.

A. It is not only recognized as the home line, not only the popular line, notwithstanding seasons of apparent great unpopularity, but the people have a pride in it. Moreover, the merchants of San Francisco are dependent upon the Southern Pacific, whose lines extend into the interior, opening up the consuming territory which supplies their trade, for the facilities of transportation; they are more or less dependent upon the Southern Pacific as they are not upon any other carrier, not even the Santa Fe. In fact they have always called upon the Southern Pacific for any new movement, new construction, new facilities, anything and everything that promised to improve the mercantile or commercial conditions, the opening

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up of new territory for them. In other words, the Southern Pacific is California's baby, you know, in a certain sense, and they will nurse it when they won't nurse any other line, and they will spank it when they would not spank anybody else. Now while that is a sentimental reason it is a very powerful reason why the Southern Pacific Company controls traffic for its line, for a line understood to be Southern-Pacific line, all the way through, against any other influence that can be exercised. I am not sure whether that answers your question or not.

Q. Yes, I think you have covered it, Mr. Stubbs. While we are on the subject of the Sunset line, before we adjourn, I would like to call your attention to some tables. They appear in the record in connection with the testimony of Mr. Blye—tables pointing to the falling off in the Sunset line's percentage of New York traffic. I do not know whether the intention was to impute that to some influence of the Union Pacific, but, be that as it may, have you a memorandum there of the percentages and the years, showing the progressive
6590 declination up up to 1901?

A. Yes, I have entered in pencil this memorandum. It is my own memorandum. Since its percentage began to decrease in——

Mr. SEVERANCE. Mr. Stubbs, is that California business, or all Pacific Coast business? Blye's testimony was directed to all Pacific Coast points. He said he could not separate California from the others.

WITNESS. I am referring to Mr. Blye's testimony, and I think we will develop what it referred to. They began to decline in 1891, I think, and taking it from Blye's records (I think I have copied it correctly) he shows it was less than seventy-nine per cent in 1895, less than sixty-nine per cent in 1896, less than forty-eight per cent in 1897, forty-one per cent in 1898, forty per cent in 1899, forty-three per cent in 1900, and thirty-nine per cent in 1901.

Q. Then, there was a declination from 79 to 39 between 1895 and 1901?

A. Yes, that is the point. Was your question whether that had any relation to this so-called merger?

Q. I was suggesting that if any imputation of that kind was conveyed, Mr. Stubbs, the recapitulation of those figures would meet it.

A. Well, it looks so to me.

Q. Mr. Severance inquired whether these percentages that you were about to call out covered California business alone.

A. Those percentages cover not only California but Asiatic business, British Columbia business, all transcontinental territory which on the Short Line is west of Kuna and on the Southern Pacific line west of some point very near Corinne. I believe that about covers it. Everything.

6591 Q. I think you mentioned British Columbia?

A. Yes: I mentioned British Columbia.

Mr. SEVERANCE. It covers all the transcontinental business: North Pacific coast and all?

WITNESS. Yes: all the so-called transcontinental business.

Q. The decline being noted from 79% in 1895 to something below 39% in 1901: are you able to explain to us the reasons and conditions concerning that decline?

A. Very natural conditions. The growth of the northwest was very rapid, much more so than California: the increase of traffic to the northwest was more rapid and relatively greater in bulk than it was to California. The completion of the Atchison, Topeka & Santa Fe road had stirred the trunk lines to greater endeavor: their activities were such that a larger share of the traffic went that way, all-rail, than formerly went that way: in fact there was scarcely any commercial or industrial condition but what contributed to the relative—not the actual but the relative decrease in the movement via the Sunset route. These facts were known to Mr. Spence, who succeeded Mr. Hawley, in 1901. The percentages were no longer useful: they did not show the facts that we wanted to know, in one sense, and in another sense they showed too much—showed against the Sunset Route, when, as a matter of fact, the difference, the falling off, was only partially a decrease in the tonnage by the Sunset Route. More of it was caused by an increase from the natural growth of the business by the all-rail route. Mr. Spence, acting upon his own motion, discontinued exchanging those percentages with
6592 the trunk lines for that reason, and my recollection is that either he volunteered the information to me or some objection was made by the trunk lines, and I took it up with him and he explained the reasons why he had done it, and I let it stand, did not change it, because I thought he was right in the matter. Now, that is all the significance that can be attached to the reduction of those percentages it seems to me.

Q. By the way, Mr. Stubbs, you mentioned that the completion of the Santa Fe line to southern California was a factor in the relative or comparative reduction of the Sunset takings.

A. In that respect I mean that the growth—everybody on the coast knows how much more rapidly southern California grew than central or northern California. That is a very important factor in the case. And most people know how the northwest, Seattle, Tacoma, and even Portland, and Spokane grew—much more rapidly than central California or San Francisco, if you like.

(A recess was here taken until 2 o'clock p. m., at which time the witness was recalled and his direct examination resumed by Mr. Dunne.)

Q. In 1901, up to and including the time of the stock purchase by the Union Pacific of Southern Pacific stock, which is mentioned in this record, you were the chief traffic officer of the Southern Pacific Company?

A. Yes.

Q. Were you ever called upon by any one connected with that stock purchase, at any time, for any information in respect to
6593 the traffic takings of the Sunset line?

A. No.

Q. Prior to June 30, 1901, Mr. Stubbs, what would you say as to the volume and value of the so-called Asiatic business?

A. Generally speaking, I think the Asiatic business has always been overrated. My recollection, from figures that had been compiled of the tonnage passing through San Francisco, in both directions, probably inclusive of Portland, is about 34 thousand tons.

Mr. SEVERANCE. That is per year?

WITNESS. Per annum, yes.

Q. For the year ending June 30, 1901?

A. For that particular year. Earnings probably about $375,000 for the Union Pacific interests.

Q. Would those earnings include the earnings of both the Union Pacific and the Southern Pacific?

A. I think so. I am not sure. I will have to look at my memorandum and see. (After looking at memorandum.) Yes, sir.

Q. Mr. Stubbs, when was the Portland & Asiatic steamship line established?

A. I think the organization of the company was made in 1900. I think the vessels were chartered in 1900—the first charters, but my recollection is that they did not go on until the early part of 1901; I think the first sailing was in the early part of 1901. I am not sure whether it was before or after July 1st.

Q. Those are the steamships that were put on subsequently to the vessels that operated in that business out of Portland and which have been referred to in the testimony, the Dodwell Line for instance?

A. Yes.

6594 Q. Those vessels were anterior to the Portland & Asiatic steamship lines?

A. That is my understanding. I know that to be the fact.

Q. Why was that line to the Orient established out of Portland?

A. Primarily to take care of the flour traffic and grain traffic that was produced on the line of the O. R. & N. railway and marketed in Asiatic countries.

Q. Where was that wheat produced—in what state or states?

A. I think for the most part in eastern Washington; some in eastern Oregon.

Q. Was the movement and the milling of that wheat subjected to any movement to and milling in the Puget Sound ports?

A. If that wheat had not moved into Portland and was not milled in Portland, or if it were milled in the interior and had not moved into Portland, it could have gone out via Tacoma or Seattle, the wheat being milled at either one of those points, or the flour going through those points. Many of these grain producing and milling stations in eastern Washington are common between the Northern Pacific and the O. R. & N., and their product was competitive, no matter where the ultimate destination of the product was, even for Europe or for Asia. The grain might move in to a Puget Sound port

and go by sea to its ultimate destination or move into Portland and go by sea to its ultimate destination.

Q. Were there flouring mills at Portland?

A. There were flouring mills at Portland and there were also, according to my understanding—in fact I know it—at Tacoma and Seattle.

Q. Without an outlet for this wheat and flour from Port-
6595 land, through what gateways would it have sought the Orient?

A. Naturally through Puget Sound gateways.

Q. What would the effect of that diversion to the Puget Sound gateways have been upon the tonnage of the O. R. & N.?

A. I can't express it in tons, but from all competitive points, I mean points that were competitive or that were served by both the Northern Pacific and the O. R. & N., it would naturally move into Puget Sound over the Northern Pacific; at points which may be said to be local to the O. R. & N. it would have been short-hauled to the first junction with the Northern Pacific and then moved in to Puget Sound.

Q. Then, the steamship service or the boat service was established as ancillary or auxiliary to the rail business of the O. R. & N. originating in Oregon and Washington?

A. That is my understanding. Of course I was not connected with the O. R. & N. in 1900, and as a matter of fact for some time after going to Chicago I knew very little about these local conditions; I was not concerned in them. But the question has come up once or twice since with respect to whether these charters should be renewed and the P. & A. line continued, and the controlling reason for continuing that steamship line has been that it was necessary in order to take care of the grain business of eastern Washington and eastern Oregon that might have moved out by Puget Sound and would if we did not have the gateway there.

Q. What has been the history of that boat service in and of itself, as distinguished from the rail service—as to whether it was operated at a profit or a loss?

6596 A. It has always been operated at a loss; that is, its earnings have never paid the cost except in one year—I don't remember the year, but I believe one year it showed an improvement. I think that was during the year of the Japanese-Russian war.

Q. How did the Asiatic flour tonnage moving from the Columbia River compare with the volume of other Asiatic business moving by the port of San Francisco and the port of Portland?

A. As a rule it was much greater; that is to say, the movement of flour and grain from, as it is termed, Columbia River points, which include Portland, to Asiatic ports, was greater than the total movement of Asiatic business in and out through the ports of San Francisco and Portland.

Q. For what year? How was that for the year 1901?

A. I think that is true for the year 1901. I would have to look that up to be certain. I think probably Mr. Miller here can confirm my statement on that now. What year was that, Mr. Miller?

Mr. R. B. MILLER. I can't say now.

Q. My memorandum is that for the year 1901 the situation was as you have described it

A. That is my recollection now.

Q. If any transcontinental traffic was handled out-bound from the port of Portland under the conditions that you have described, characterizing the movement of the wheat and flour, would not such transcontinental business necessarily have been subordinated to the Asiatic flour and wheat export?

A. The flour movement was always given the preference, and that is one reason why it is impossible to successfully use, with the fleet that we have, the Portland gateway advantageously for any movement of what we call transcontinental traffic.

6597 Q. What have you to say about the inward bound business of these boats?

A. In that inward bound business there was nothing to bring back except the general merchandise business that was common in so far as its opportunity for movement to all the ports.

Q. How did the sailings of those Portland ships compare with the San Francisco sailings and the Tacoma and Seattle service on this transcontinental business?

A. The sailings of the Portland & Asiatic line averaged about once a month; the sailings between Yokohama and San Francisco were for many years and at this time not less than every nine days, and they were at least that often to Puget Sound, and sometimes oftener,—in round numbers.

Q. You are referring now to the year 1901?

A. Yes, sir.

Q. Also prior to that year, for that matter?

A. I think so, yes, sir.

Q. How did the Asiatic business move, the inward bound business, in respect to the all-rail lines?

A. It moved it almost wholly all-rail.

Q. What line or lines carried the most of it in connection with the Southern Pacific and in connection with the O. R. & N.?

A. The eastbound, you mean, of course?

Q. Yes, sir.

A. The San Francisco tonnage moved almost wholly via the Central Pacific and Union Pacific lines; that is to say, the movement via Portland was practically altogether via the Union Pacific line. I am speaking now with respect to the volume of tonnage that moved to and east of the Missouri River; that was the volume.

6598 Q. You have spoken, Mr. Stubbs, of inward bound Asiatic business moving through the port of San Francisco and moving almost wholly over the Central Pacific-Union Pacific line via

Ogden. Was the Occidental & Oriental Steamship Company engaged in the water carriage part of that business?

A. It was.

Q. What relation did the Southern Pacific and Union Pacific bear to that steamship company?

A. The Occidental & Oriental Steamship Company was organized by the Union Pacific Railroad Company and men controlling the Southern Pacific, each interest representing one-half interest in that organization. Its vessels were chartered; I think first three vessels were chartered from the White Star Line, and were laid on usually between Japanese and Chinese ports and San Francisco, thus making a through line from the Missouri River to those points, that was owned and controlled by the Union Pacific and the Southern Pacific jointly.

Q. There is some testimony in this record as to the stock ownership of the Southern Pacific and the Pacific Mail. Was the Occidental & Oriental Steamship Company formed, and did the Union Pacific and Southern Pacific bear the relation to that company that you have indicated, prior to the stock interest of the Southern Pacific in the Pacific Mail?

A. Yes, sir. At the time of the organization of the Occidental & Oriental Steamship Company neither the Central Pacific nor its people had any interest whatsoever in the steamship company. Whether, while Mr. Gould had control of the Union Pacific, he had any interest in the Pacific Mail or not I cannot testify about. He was in and out of lots of things from time to time.

Q. How was the Occidental & Oriental Steamship Com-
6599 pany operated in this Asiatic business with reference to the Pacific Mail Steamship Company?

A. They were operated, you might say, cooperatively. The Pacific Mail agencies in the Orient and at San Francisco also act as agents for the O. & O. Steamship Company; their sailing schedules were made jointly, in proportion to the number of ships each had in the line.

Q. Then, the Pacific Mail Steamship Company, the O. & O. Company and the rail line out of San Francisco and through Ogden to the Missouri River were a through line from the Orient to the overland destinations?

A. That is my construction of the situation.

Q. Mr. Stubbs, it may be a mere corollary from that situation, but I will ask you the direct question: Whether prior to and including the year 1901 the Union Pacific did not always work the port of San Francisco preferentially for Asiatic business?

A. It did.

Q. How would the business of the Union Pacific have been affected (I speak now of the Asiatic business) if it undertook (I am only assuming this hypothetically to develop the commercial condition of the situation) to force business by the Portland & Asiatic line?

A. It would not have hurt anybody but itself.

Q. I want to direct your attention now to the traffic——

A. But I might say as an additional answer to that question, I cannot see that it would have any interest to do it. It had its interest in the O. & O. Steamship Company, and the Union Pacific proper had a longer haul into Ogden than it would have had if it took it to Granger—the Union Pacific proper.

6600 Q. Bearing in mind the conditions concerning the service in the Portland & Asiatic steamship lines, including in that the line that preceded the Portland & Asiatic steamship lines,—the Dodwell line, the ships that have been spoken of in the record,—bearing in mind the character of service afforded there and the purpose of installing that boat service to meet the demands of the local flour and wheat traffic, it remains as a fact, does it not, that during all that time the Union Pacific and the Southern Pacific were members of a through Asiatic line via the port of San Francisco which the Union Pacific constantly worked preferentially for that port? Isn't that the situation?

A. That is true.

Q. I now call your attention to the Utah common points and to business between Salt Lake City and other Utah common points and the Atlantic seaboard. Were the Southern Pacific and the Union Pacific engaged in that business and have they been so engaged?

A. Yes, sir; that is, the Southern Pacific has been engaged in it since somewhere along about 1888.

Q. It might be somewhat instructive, if you have a memorandum there, if you will give us the distances with respect to the Union Pacific road from Omaha and Kansas City to Salt Lake City. Have you a memorandum?

A. Yes, I have those figures here.

Q. Will you give those figures, please? The respective distances from Omaha and Kansas City to Salt Lake City.

A. Union Pacific from Omaha to Salt Lake is 1,037 miles; from Kansas City 1,161 miles.

Q. In what way was the Southern Pacific, or with what connection or connections, operating in that business from the
6601 seaboard to Utah common points?

A. Counting the H. & T. C. Railway as a Southern Pacific interest, the Southern Pacific interest would reach to Fort Worth, Texas.

Q. And what would be the line beyond?

A. From Fort Worth to Denver would be what is now known as the Colorado Southern, and beyond that to Salt Lake City either the Rio Grande lines or the Union Pacific.

Q. What is the distance, if you have the memorandum there, from Fort Worth to Salt Lake City via the Colorado & Southern and the Denver & Rio Grande?

A. Fort Worth to Salt Lake City via the Colorado Southern and Denver & Rio Grande is 1,508 miles.

Q. How much would that be in excess of the distance from Omaha to Salt Lake City?

A. 271 miles.

Q. What is the distance from Fort Worth to Salt Lake City via the Colorado & Southern to Denver and thence via the Union Pacific?

A. 1,431 miles.

Q. And how does that compare in respect of distance with the distance from Kansas City to Salt Lake City over the Union Pacific rails via Denver?

A. 270 miles greater distance.

Q. Then, as between those rail lines, you would have the Colorado and Southern and the D. & R. G., on the one hand, and the Union Pacific on the other, in that business north of Fort Worth?

A. That is true, the way I view it.

Q. What was the haul, as you view this matter, which the Union Pacific was seeking on this Utah traffic?

Mr. SEVERANCE. What time is this question directed to?

Mr. DUNNE. Up to and including 1901.

6602 Mr. SEVERANCE. Mr. Stubbs has stated he had nothing to do with the Union Pacific previous to 1901. I suggest whether it ought not to be brought out by somebody who knows the facts rather than to have Mr. Stubbs's opinion.

Q. I will ask you this: As the business moved, what was the haul that the Union Pacific would have west of Omaha and west of Kansas City? That is a matter of relation of rails. You can state that.

Mr. SEVERANCE. He has already given that.

A. The haul was over these distances that I have explained.

Q. So far as the movement of business is concerned from the seaboard to the Missouri River, was there anything to prevent the Union Pacific from working with any and all lines that would deliver the business to their road at Omaha or Kansas City, that you are aware of?

A. There was nothing to prevent it. Not only was there nothing to prevent it, but nothing did prevent it. They worked with all their connections. That is a matter of public knowledge among railroad men.

Q. What was the relation of the Southern Pacific to this traffic?

A. The Southern Pacific for this Utah traffic was an initial carrier, took up the business at New York City, carried it by its steamers to New Orleans, and thence over these lines that I have described to Houston, thence over the Houston & Texas Central to Fort Worth; there its interest and control over the traffic ceased; there it delivered the traffic to the Colorado & Southern, the Colorado & Southern carried it to Pueblo or to Denver, delivering it to the Rio Grande at Pueblo and possibly might have delivered it to the Colorado Midland at Colorado Springs or through a connection that would reach

6603 Colorado Springs, or to the Union Pacific at Denver.

Q. I believe one of the witnesses testified here (Mr. Love) that he sent some business that way.

A. Mr. Love testified he shipped some business over that route and used the Union Pacific west of Denver—sometimes, not always.

Q. Then, the all-rail routes or the South Atlantic steamship and rail routes would be the initial carriers from New York as against the Southern Pacific boat line on this business?

A. Yes.

Q. Will you describe these several routes or lines between New York and Utah?

A. I have a memorandum; I will have to read it; I can't remember the distances.

Q. We would like to get the exact distances into the record, if you have them there.

A. There are the trunk lines—I suppose it is unnecessary for me to name them, through Chicago, and their connection through Chicago and to St. Louis, Omaha, and Kansas City. The short line of these trunk lines from New York City was the Pennsylvania. It might go through Chicago or St. Louis. The average of its distance to Omaha (and its connections) and to Kansas City was 2,624–1/2 miles. All the other all-rail lines which could be made——

Mr. SEVERANCE. You mean clear through, don't you, 2,600 miles—clear through to Utah? You said to Kansas City or——

WITNESS. I mean the average of the route, using the Pennsylvania road and its connections via Kansas City and via Omaha, to Salt Lake City would be 2,624–1/2 miles.

Mr. SEVERANCE. Yes, that is what I understood you. I think you misspoke.

6604 WITNESS. Now, all these many railroad lines that can be made between New York and the Missouri River were competing or were in the market for this business as against the short Pennsylvania line.

Q. At equal rates?

A. At equal rates—all the same rates. Now, there were several ocean and rail lines by way of the south Atlantic ports, like Portsmouth, Newport News, Norfolk, and Savannah. The ocean haul from these lines ranges from 325 miles via Norfolk to 814 miles via Savannah.

Q. That is, the distance from New York to the port?

A. To the port. Then there were the Gulf lines, the Mallory Line and the Southern Pacific line, serving the ports of New Orleans and Galveston. The ocean haul to New Orleans is 1,800 miles and to Galveston 2,200 miles. I mean the ocean haul for these lines ranges from 325 miles via Norfolk and Portsmouth to 814 miles via Savannah.

Q. The New Orleans distance you gave as 1,800.

A. The New Orleans distance by sea is 1,800 miles. The Galveston distance is 2,200 miles. The average haul, as I have figured it here, from New York to Salt Lake City via the south Atlantic ports, that is, Portsmouth and Norfolk and Savannah, is 3,061 miles—3,062 call it, because there is a fraction there—which is 121% of the short all-rail haul. The average length of the haul via the Gulf ports is

3,965-1/2 miles, or 157% of the all-rail distance and 129-1/2% of the part rail and part water distance via the south Atlantic ports. Now, the all-rail rates are the standard rates. The ocean and rail rates via the south Atlantic ports and via the Gulf ports are
6605 the same, but they are a differential under the all-rail rates by a scale of 39 cents for first class.

Q. Now, the Union Pacific service, whether in connection with the all-rail lines or with the broken service, water and rail, begins in either event at Omaha or Kansas City, doesn't it?

A. It does.

Q. Have you a memorandum of the distance from Fort Worth to Salt Lake City via Pueblo and the D. & R. G.?

A. Yes, sir. I think I gave it. 1308.

Q. How does that compare with the Union Pacific distance Omaha to Salt Lake City?

Mr. SEVERANCE. He has already given that as 1037.

A. 1037, I think.

Q. Then, the Union Pacific distance?

A. The distance from Fort Worth to Salt Lake City via Pueblo and the D. & R. G. is 1308 miles, which is 271 miles more than the Union Pacific distance Omaha to Salt Lake City. Now, that was not true previous to 1901. There has been a reduction in the distance on the Union Pacific road of some 29 miles.

Q. I do not think you gave the distance from Fort Worth to Salt Lake City via Denver and the Union Pacific.

Mr. SEVERANCE. Yes, he did—1331.

WITNESS. 1431.

Q. No, it is 1431.

A. The distance from Fort Worth to Salt Lake City via Denver and the Union Pacific is 1431 miles.

Q. How does that compare with the distance from Kansas City to Salt Lake via Union Pacific by way of Denver.

A. It is 270 miles more than the distance from Kansas City
6606 to Salt Lake via the Union Pacific via Denver.

Q. If the Southern Pacific Company's steamship line and the H. & T. C. Railroad (assuming them to be one interest) take the freight, how far will that freight be when it arrives at the taking point of the Colorado & Southern at Fort Worth? How many miles more distant from Salt Lake City than if it had been delivered to the Union Pacific at Omaha?

A. It is 270 and 271 respectively. It might be still longer according to the route used west—either west of Kansas City or west of Fort Worth, but it would have been at least, according to the present distances, 290 miles farther away from Salt Lake City than when it left either Omaha or Kansas City.

Q. I think you stated that the distance from Fort Worth to Salt Lake City over the Colorado & Southern and the D. & R. G. via Pueblo was 1308 miles.

A. That is my memorandum here, yes, sir. I think that is correct.

Q. Then, Salt Lake City goods, moving from New York via the Morgan Line and the H. & T. C., upon reaching Fort Worth would be how many miles more distant from Salt Lake City than they would be upon arrival at Kansas City to be forwarded over the U. P. to Salt Lake City?

A. 271 miles.

Q. Just assuming provisionally that the Southern Pacific should withdraw the ships, or any interest controlling the Southern Pacific, if such an interest exists—should withdraw the ships from the Utah business, is there any other water line that serves that business through the Gulf?

A. There is the Mallory Line.

Q. How long has the Mallory Line been operating between
6607 New York and the Gulf?

A. Oh, for some time previous to my connection with that route, which was in 1882 or 1883.

Q. And they have been operating continuously?

A. Continuously ever since.

Q. Have you a statement of what the tonnage via the Southern Pacific to Utah amounted to in 1900?

A. From New York to seaboard points?

Q. Yes, sir.

A. I got it from the auditor and have a memorandum here to the effect that it was 1632 tons.

Q. Have you had your attention called to some testimony given by Mr. Love and Mr. McCarthy at Salt Lake City in this case about their use of the Gulf routes?

A. I read their testimony as it is in the printed record.

Q. Now, with respect to their statements about the percentage of seaboard business moving via the gulf ports to Salt Lake City previously to 1901, I think Mr. McCarthy made an estimate as to his business—that 90% of it moved.

A. No. I think that was Love's testimony.

Q. Love's, rather, and McCarthy's estimate was from 70 to 85%?

Mr. SEVERANCE. Mr. Dunne, pardon me. Those estimates were made not on the business, I think, really through the Gulf ports but through the broken water and rail lines as against the all-rail lines which took only 10%—not through the Gulf ports.

WITNESS. I don't think so. I would not be positive, but my impression is that they claimed that that was the percentage that moved via the Gulf ports. But that you can easily correct.

6608 Q. I simply want to ask you, Mr. Stubbs, whether such figures as those, 90% or from 70 to 85%, would be representative of the percentage of the Salt Lake City seaboard business moving via the Gulf ports.

A. Of course I can't check the statements of either Mr. Love or Mr. McCarthy with respect to the movement of their own business. They may be right or they may be wrong, but from the very best

information obtainable by us we make out that less than 55% of the seaboard business to Salt Lake City moved via the Gulf ports, and the statistics we have since obtained, these 1600 tons (since that estimate was made), show that certainly that is over the mark very much—55%.

Mr. SEVERANCE. Here is what Mr. McCarthy says, if you want to get it correct in the record.

Mr. DUNNE. Just read it.

Mr. SEVERANCE (reading): "Q. From your knowledge of movement of freight, what percentage of the business into Salt Lake City from Atlantic seaboard territory would you say moved by water and rail lines combined, previous to the amalgamation of the Southern Pacific and Union Pacific?

A. I should say a conservative estimate would be 70%." Then the question was repeated: "Q. I ask what percentage of the business moved by the broken rail-and-water lines, either by the Union Pacific line or by the Gulf route; I mean as opposed to the all-rail route from the seaboard.

"A. I answered with that understanding—70%."

Q. Now, having heard that read, Mr. Stubbs——

A. Now hold on. We may do well to go into that a little further. Mr. Severance may be right. I think it is probable that he is
6609 nearer right than I, but I read that over and somewhere I found he stated that from 70 to 85 per cent of the Salt Lake Hardware Company's business moved by the water routes, and I think his testimony went to show that he shipped altogether by the Gulf routes. I don't know that it is important.

Mr. SEVERANCE. The question put to him was: "previous to the amalgamation." There is the question right there.

Q. But however that may be, Mr. Stubbs, are you able to say whether the assignment to the water routes, taking them all, the south Atlantic port routes, in 1901—1900 up to 1901, and the Gulf ports—whether the assignment to those routes of a percentage of 90 per cent or from 70 to 85 per cent of the Salt Lake business as against the all-rail lines, in your judgment would not be an exaggerated percentage.

A. It would.

Q. By the way, you spoke of the Mallory Line, and this reference to Mr. McCarthy's testimony calls my attention to the route. I think you referred to it for Atlantic seaboard business to Salt Lake City by way of the Mallory Line, through the International & Great Northern and the Colorado & Southern. Where would the International & Great Northern take the business?

A. At Fort Worth, deliver it to the Colorado & Southern, make the same delivery that the H. & T. C. or Southern Pacific makes.

Q. Then, the Southern Pacific, the H. & T. C. and the Colorado & Southern would be a line for which the counterpart as a Gulf route might be said to be the Mallory Line, the International & Great Northern and again the Colorado & Southern?

A. Or the Mallory Line and the Gulf, Colorado & Santa Fe, or the Mallory Line and the M. K. & T. Several routes could be made. Any one of them could drop out of the situation and not be missed.

6610 Cross-examination by Mr. SEVERANCE.

Q. Taking up the last matter that was gone into by Mr. Dunne—you haven't any figures, have you, to show the exact proportion of Utah business that moved by broken rail-and-water lines as opposed to the all-rail lines from the seaboard territory? You are merely giving an estimate?

A. There are no figures available that are accurate, for the period previous to 1901.

Q. That is what I thought.

A. That is, that we have been able to get.

Q. I understand. You understand that Mr. McCarthy was for years the Union Pacific agent in Salt Lake?

A. I have understood so. I believe that to be true.

Q. You know that Mr. Love, who testified concerning that matter, is the head of the largest mercantile institution in Utah?

A. I know him very well in his business.

Q. You know that he is the head of the largest mercantile institution in Utah, don't you?

A. No, he is not at the head of it; he is their traffic manager.

Q. He is at the head of the traffic of that institution?

A. He is at the head of the traffic.

Q. You would not undertake to put your judgment, in the absence of definite figures, in opposition to the opinion of those gentlemen, would you, as to the movement of that traffic in those days?

A. So far as their own particular business is concerned?

Q. Mr. McCarthy was the agent of the Union Pacific there,
6611 and he was a railroad man?

A. Not at this time; not when he testified.

Q. And now he is traffic manager of a hardware company, I understand. But he was originally the representative of the Union Pacific. I say you would not attempt to be definite about your figures, and put your opinion up as opposed to these gentlemen, would you, who were on the ground, and who knew the movement of business into Utah?

A. Yes, I perhaps would oppose, with some degree of success, the opinion of Mr. Love or Mr. McCarthy, as to the general situation; not, however, when they spoke with respect to their own particular business.

Q. You were so closely in touch personally with the movement of business from Atlantic seaboard territory into Salt Lake and Utah common points at that time, that you feel competent to put up an opinion that might not agree with theirs, although they were on the ground?

A. I don't think I said so.

Q. Well, I am asking you that.

A. I thought you were putting the words in my mouth. However, no, not personally. Nor were they personally in touch with it outside of their own particular business. My source of information with respect to business not their own would probably be quite as good, and, in my judgment, would be better and more accurate than their sources of information with respect to business not their own.

Q. Now, at that time and for some years previous, Mr. McCarthy had been the representative of the Union Pacific Railroad
6612 Company at Salt Lake City, locally in touch with traffic moving in and out of that territory. You would not think that your sources of information were better than his, about the movement of that business, would you?

A. I have understood that Mr. McCarthy was in that connection, yes.

Q. Assuming that he was.

A. Yes. I would say that if he were there today as the representative of the Union Pacific that my sources of information, in my present position, or any position that I ever held, were better than his. And you know that as well as I do.

Q. Even when you were only representing the Southern Pacific interests?

A. That is right.

Q. Who was your agent at Salt Lake then—Mr. Gray?

A. At that time?

Q. Yes. Was Mr. Gray there then?

A. Do you mean previous to 1901?

Q. Yes.

A. I think so. We had several. I would not undertake to say.

Q. Your Salt Lake agency was seeking that business, was it not?

A. Yes, sir.

Q. By the Gulf route?

A. He was there representing the Southern Pacific.

Q. And you sought that business?

A. I think so.

Q. Mr. McCarthy and his agency was seeking the business by the Union Pacific?

A. I presume so, if he was there in that capacity.

Q. The Union Pacific at that time were working preferably
6613 on broken rail-and-water business with the Kanawha Despatch, were they not?

Mr. DUNNE. In 1901?

Mr. SEVERANCE. Yes.

Mr. DUNNE. Do you know that of your own knowledge?

Mr. SEVERANCE. He has been saying that he knew all about things there of his own knowledge.

Mr. DUNNE. No, he has not said that.

Mr. SEVERANCE. He said his information was good.

Mr. DUNNE. He said his information was more accurate than that furnished to Mr. Love and Mr. McCarthy, on the general situation.

Q. Did you have any information as to whether, previous to the amalgamation of the Southern and Union Pacific, the Union Pacific agency at Salt Lake was working with the Kanawha Despatch?

A. Personally, no.

Q. You didn't know?

A. No.

Q. Had you heard of it?

A. I don't know that I had ever heard.

Q. Then, that is one thing upon which you were somewhat ignorant?

A. At that time.

Q. The business at Salt Lake?

A. At that time, yes.

Q. But aside from that little matter, you were pretty well posted about the business between the seaboard and Salt Lake?

A. Yes.

Q. But you would not, of course, undertake to suggest that those gentlemen who so testified were mistaken about that propo-
6614 sition, would you,—that the Union Pacific was working with the Kanawha Despatch on that broken rail-and-water business at that time?

A. I have not said so.

Q. And you don't say so?

A. I have not been asked yet whether I did or not.

Q. Well, I ask you now.

A. No, I do not.

Q. So at that time your agency at Salt Lake was working the business, so far as possible, through the Gulf route; and as to whether the Union Pacific worked with the Kanawha Despatch you have no knowledge?

A. I do not know.

Q. Now, you say that you think that seventy-five or eighty per cent is too large an estimate of the amount of tonnage moving by broken rail-and-water routes from the Atlantic seaboard to Utah common points at that time. I understood you to so state, in answer to Mr. Dunne.

A. I didn't say that.

Mr. DUNNE. In 1901?

Q. In 1901.

WITNESS. I didn't say that.

Q. What did you say? What did you mean to say?

A. What I had in mind, and I think the record will show, I was speaking in reference to movement by the Gulf ports.

Q. What, in your judgment, was the percentage of the movement by the Gulf ports at that time?

A. I have not inquired. I do not know.

Q. So you have simply given your opinion, without any basis for it, so far as any inquiries you have made?

A. No, I am not giving any opinion without any basis.

6615 Q. Well, you said you didn't inquire. I asked you. I am trying to find out what you do mean.

A. What I said to you was this: That the best information that we could obtain would make the movement via the Gulf ports 55 per cent. And I made that statement with the understanding and belief in my mind that Mr. McCarthy had stated that the movement via the Gulf ports, into Salt Lake City, was in the neighborhood of 70 to 80 per cent, and that the other man——

Q. Love.

A. ——made it 90 per cent.

Q. It is quite immaterial what Mr. McCarthy may have said, or what Mr. Love may have said, isn't it? You are giving your opinion that about 55 per cent moved by the Gulf route?

A. That is right.

Q. So whatever they may have been testifying about is immaterial, so far as your opinion is concerned?

A. Yes.

Q. Did the other 45 per cent move by the broken rail-and-water lines, that is, the south Atlantic ports, and all rail?

A. It must have.

Q. And as to the proportions in which it moved broken rail-and-water lines and all-rail, you do not undertake to testify?

A. I have not inquired.

Q. And you don't know?

A. No.

Q. You were asked at some length, by Mr. Dunne, about the mileage of these various lines; and I understood you to say that traffic moving via New Orleans, then to Fort Worth and to Salt Lake by the Denver & Rio Grande had to move by rail 1308 miles—from Fort Worth to Salt Lake; that is what you said,

6616 isn't it?

A. I am not going to trust my memory as to that. I think the record will show what I said. (Referring to a memorandum.)

Q. I want to be sure to have these figures right, that is all, because I made a mistake as to one of them.

A. The distance from Fort Worth to Salt Lake via Pueblo and the Denver & Rio Grande is 1308 miles.

Q. And when it moved by the Union Pacific, that is, by the Colorado & Southern up to Denver, and thence by the Union Pacific, you stated the distance, didn't you, to be 1431 miles from Fort Worth?

A. The distance from Fort Worth, via Denver and Union Pacific, 1431 miles.

Q. After 1901 you began taking that business to Galveston rather than to New Orleans did you not?

A. I think so. Whether it was after or just before I don't know.

Q. Wasn't it about 1903?

A. I don't remember.

Q. When you got your line opened regularly to Galveston you took——

A. We had a line to Galveston. We simply transferred the regular sailings of freight from New Orleans to Galveston, for the rail line, and we have always, during certain seasons of the year, served the port of Galveston, but the regular line was not established until somewhere about 1901, and it may have been later. I can't tell you. I will get the information for you, if you like.

Q. I think there is no dispute about that. I think it was 1903. But that was the regular line to Galveston?

A. Yes, sir.

Q. After that line was established, what was the route of
6617 the Southern Pacific to Fort Worth from there?

A. Galveston.

Q. And from Galveston to Fort Worth, over what line?

A. G. H. & S. A. up to Houston, a little over 50 miles; then H. & T. C. up to Fort Worth: just as it would have been, so far as the H. T. & C. is concerned, when it came in via New Orleans.

Q. So that the fact that you changed your sailings from New York to New Orleans to New York to Galveston, made no difference in the final destination of the traffic, so far as the Southern Pacific was concerned: it was Fort Worth in both cases?

A. Yes; the only difference was that it lengthened the water haul and shortened the rail.

Q. It made it more profitable to you to carry the traffic, didn't it—more economical?

A. Well, that might be so and it might not; I don't know. I can figure that out for you.

Q. Now, you were interrogated by Mr. Dunne, just before the Colorado and Utah business, concerning the Asiatic traffic. This line of the Portland & Asiatic was inaugurated, I believe you said, early in 1901—the company organized in 1900?

A. That is my understanding.

Q. Previous to that time, for a good many years, different lines of steamers had been operated in connection with the O. R. & N. from Portland to the Orient, had they not?

A. Well, they served the port of San Francisco, and I presume they did connect with and interchange traffic with the O. R. & N.

Q. Now, take the Samuels Line. Do you know anything about that?

6618 A. Well, I only know that at one time there was a line on there, put on by Samuel Samuels & Company.

Q. And that was from Portland to the Orient, wasn't it.

A. Yes.

Q. And they did a through business from the Orient to the eastern part of the United States, did they not?

A. Yes, sir, that is my understanding of it.

Q. I didn't get my question in the record fully. The Samuels Line, when it was in existence, under contract with the O. R. & N., made up a through line to the Missouri River, in connection with the O. R. & N., the Short Line and the Union Pacific, didn't it?

A. It might have done so, but I can't say whether the Samuels Line had any contract with the O. R. & N. Company.

Q. You know it ran in connection with it? It delivered traffic to it?

A. I can say that, according to my belief and recollection, they did interchange traffic with each other.

Q. That line was succeeded by what was known as the Dodwell Line, wasn't it?

A. Yes, I understand Dodwell had a line on there for a time; that is my recollection.

Q. And that Dodwell Line interchanged business at Portland under some kind of an arrangement of which you are not advised, with the O. R. & N., did it not?

A. I think it was an ordinary interchange arrangement, but whether there was any contract behind it I don't know.

Q. And that business was handled to the East, from Portland,—I mean inward tonnage coming from the Orient was handled to the East exclusively over the O. R. & N., the Short Line, and the Union Pacific, wasn't it?

A. I don't know. I would presume it would be, but I do not know.

6619 Q. That is your best judgment?

A. I think it is a fair presumption.

Q. That line, as well as the Samuels Line and the Portland & Asiatic, when it was put on, had the same ports of call in the Orient as the Pacific Mail ships, did it not?

A. I think so, yes, sir. There may have been some exceptions. Some of those lines may have gone up to Vladivostok, that is, have sent occasional vessels up there, which the Pacific Mail did not; but I think it is near enough the truth to say yes.

Q. Are you advised as to the extent of the tonnage brought in from the Orient by that line—have you any accurate information?

A. Previous to 1901?

Q. Yes.

A. No. The tonnage that I testified to has been collected in view of this suit. We have looked it up in connection with this suit. That is the reason I happened to know it.

Q. The O. R. & N., when they established a line to the Orient themselves, that is, the Portland & Asiatic, put a traffic man over there in charge of it, didn't they—to seek the routing of business this way—Mr. Cameron?

A. I think so. That is my recollection, yes, sir.

Q. And he was soliciting business for that line in connection with the rail lines of the Union Pacific and sub-lines to Portland, in the same ports that the Pacific Mail organization was seeking business through San Francisco?

A. I think so.

Q. And you testified at one time, did you not, that that line through Portland was in active competition with the lines
6620 that you represented through San Francisco?

A. I did, sir.

Q. You still say that, don't you?

A. Yes, in that sense.

Q. You are the head of both of them now—both systems, the Union Pacific and Southern Pacific?

A. I haven't anything to do with the Portland & Asiatic Steamship Company.

Q. That is run by Mr. Schwerin, isn't it?

A. That is right.

Q. And he runs the Pacific Mail?

A. I think so.

Q. And the Occidental & Oriental is still running?

A. Yes.

Q. And the Japanese line, that is running?

A. No.

Q. Has it anything to do with its traffic?

A. I think not.

Q. Doesn't the Pacific Mail organization represent them in a traffic sense?

A. I think they are simply their agents.

Q. Yes—agents to secure traffic, aren't they?

A. No, I don't think so. I think they have their own independent organization, so far as that—Now, understand, I am giving you my best judgment about that: I don't know. The local agency, which is not an agency for the soliciting of traffic, at San Francisco, I think is the same for the Japanese as for the other lines: I know it was for some time; whether it is today or not I don't know.

Q. You stated, in answer to Mr. Dunne, and I noticed you were quite careful, and I might say technical, in your answer, that you could see no reason why the Union Pacific should prefer to
6621 work Asiatic business through Portland, because the Union Pacific proper, so far as Portland was concerned, ended at Granger, and therefore they would not be any better off having the rail haul east from Granger than from Ogden. Now, it is a fact, isn't it, that the Union Pacific owns the Short Line?

A. I understand it to be a fact.

Q. You know it, don't you?

A. No, I don't know it in one sense; but it stands in my mind just as solidly as if I did absolutely know and had seen the evidences of the transfer.

Q. Well, you know that they own the stock?

A. I think so, yes, sir.

Q. And you also know that the Short Line or the Union Pacific or both of them together, own the stock of the O. R. & N., don't you?

A. I think so.

Q. So that the Union Pacific, in fact, so far as stock ownership and management as a single line, really reaches from the Missouri River to Portland, doesn't it?

A. It is quite agreeable to me that for all purposes of this inquiry you assume that they are one road.

Q. That is what I thought. Well, that is the reason, isn't it, that you were so careful in that answer to my friend Mr. Dunne, in drawing the comparison between business over the Occidental & Oriental, to stop the Union Pacific at Granger instead of Portland?

A. Is your statement that I was so careful, evidence?

Q. Well, weren't you a little careful?

A. Is that in the record? No, I don't think I was unduly careful. I wanted to be as near exact as I could.

6622 Q. That is, you were being exact in a corporate sense, were you, in stopping where the Union Pacific as a corporation stopped—at Granger?

A. Well, I might say, trying to be exact and clear in my statements, so as to be understood by you as well as by Mr. Dunne.

Q. Now, this is the fact, isn't it—that as to all Asiatic business that moves via Portland, by the Portland & Asiatic or its predecessor lines, the Union Pacific, as the owner of the Short Line and the O. R. & N., which, in turn, controls the Portland & Asiatic, has a through line of its own from Asiatic ports to the Missouri River?

A. Practically.

Q. Whereas, if the business moves through the port of San Francisco, the Union Pacific itself had, as you say, a half interest in the Occidental & Oriental and the haul from Ogden to the Missouri River, but no interest in the haul from Ogden to San Francisco?

A. That is right.

Q. And if it moved by the Pacific Mail Steamship Company, the Union Pacific had no interest in the business except such as it got for hauling the traffic from Ogden to the Missouri River?

A. That is right, with respect to that particular movement.

Q. That is right. I am asking you about the Asiatic business.

A. No, with respect to the particular tonnage that moved in the Pacific Mail vessels, that is true.

Q. That is what I asked you about. Now, didn't the Southern Pacific Sunset Route take Asiatic business to the East also?

A. I do not recall a single shipment. There may have been an attempt to move a shipment that way, but I don't recall it.

6623 Q. Are you certain of that, that there was no attempt made by your organization——

A. Now, hold on. I understood your question to relate to the eastward-bound—inward-bound.

Q. It did. I am coming to the other later.

A. I am under the conviction that there was no attempt ever to send that business via the Sunset Route.

Q. Was there an attempt made to move business to the Orient by the Sunset Route, originating in Atlantic seaboard territory?

A. Yes, sir.

Q. And there was a large movement that way, wasn't there, as compared with the total volume of Asiatic business?

A. No, I should say that it was very small.

Q. What percentage of the Asiatic business moves through San Francisco?

A. It would be a mere guess, but I think we can develop it. Mr. Spence will be on the stand, and he can tell you.

Q. Well, the Southern Pacific organization here in New York tried to move the business that way, didn't it?

A. I don't know.

Q. You don't know whether they did or not?

A. I don't know whether it did or not; I mean, as a regular thing. I think that there may have been cases, depending upon the character of the freight, that the Southern Pacific agency here did attempt to send the business that way; but it didn't amount to a great deal in my judgment.

Q. Did cotton move to the Orient from Southern Pacific territory in Texas?

A. Yes, sir.

6624 Q. Through San Francisco?

A. Yes, sir.

Q. And also through Portland?

A. Yes.

Q. And also through the Puget Sound gateways?

A. By all of them. But that cotton originated, for the most part, upon Southern Pacific lines in Texas.

Q. Cotton moved to the Orient, you say, through all the gateways. It moved up by St. Paul and west over the Great Northern and Northern Pacific?

A. Yes.

Q. Moved over the Northern Pacific to Portland?

A. I doubt whether there was much Texas cotton moved out via St. Paul.

Q. Didn't it go up through Kansas City, some of it?

A. I think some of it, but I think very little of it. I think for the most part the Texas cotton moved out via Galveston or Houston over our line; that is my recollection.

Q. That cotton business to the Orient at one time was quite an extensive business, wasn't it?

A. Yes, indeed.

Q. And all of the lines were seeking it?

A. All of them.

Q. And all the vessel lines were seeking it?

A. All of them. I might qualify that by saying that according to my recollection the Southern Pacific were only seeking that which originated on its own lines in Louisiana and Texas; I do not think

we ever made any attempt to go East of the Missouri River, or to go up into Oklahoma.

Q. The other lines, however, were seeking to take cotton from Southern Pacific territory to the Northern ports?

A. I am not so sure about that. I think the rate conditions
6625 were such as to send that Texas cotton out southward to the Gulf; that is my impression. I wouldn't be sure about that.

Q. You don't attempt to be accurate about that?

A. No, sir. I wouldn't. That is my general impression.

Q. Now, you said that the O. R. & N. put on this Portland & Asiatic line for the purpose, primarily, of moving grain and flour to the Orient?

A. I said that was my understanding of it.

Q. I think you said that it had been maintained principally for that reason since you have had charge of the Southern——

A. I said so far as the maintenance of the line since my connection with the O. R. & N., I knew that that was the fact; and I understood that was the fact previously.

Q. And this traffic in grain and flour, that it was desired to take through the port of Portland, was traffic that was competitive with the Northern Pacific, you stated, in eastern Washington, did you not?

A. Some of it.

Q. Very largely, wasn't it?

A. Well, yes.

Q. And that is a large business, is it not?

A. Quite considerable, yes, sir; enough to exceed, as I explained to you, the total tonnage in and out of the other Asiatic traffic.

Q. There is a great deal of business, isn't there, both transcontinental and otherwise, for which the Union Pacific, with the Short Line and the O. R. & N. taken together, as one system, is competing with the Northern Pacific for business to Portland?

A. There is some competition—I am only hesitating to answer with respect to whether it is great or small: they compete at Port-
6626 land; they compete in some measure, although greatly to the disadvantage of the O. R. & N. at Spokane; and there are other points in eastern Washington where they compete. I believe they compete at Pendleton, greatly to the disadvantage of the Northern Pacific. That is about all that I can think of.

Q. That is quite a large traffic, isn't it? The traffic into Portland alone is a large business, isn't it?

A. Yes, I should say it is worth seeking—worth seeking.

Q. And when you testified before, you spoke of the Northern Pacific and the Union Pacific as competing in every possible way they knew how. I think that is the way you put it. That is still your opinion, isn't it?

A. I don't remember whether I said that.

Q. Would you say that now?

A. I think that wherever they serve a common point, they each undertake to get, under fair and reasonable conditions, all they can.

Q. That is what you call competition, isn't it?

A. I should say, with respect to that particular business, that that was competition, yes.

Q. And they compete by trying——

A. I am not going to bandy terms, you understand.

Q. I understand—each trying to give as good service as possible, and each trying to get the business by solicitation and otherwise; that is true?

A. Each trying to get the business, yes.

Q. And that is what you call competition, isn't it?

A. In that particular case, yes.

Q. So that you would feel that the Northern Pacific and the
6627 Union Pacific systems were competitive systems?

A. In some respects.

Q. In answer to Mr. Dunne, you testified about the advantageous position of the Sunset Route in getting business from the seaboard to the Pacific coast—Atlantic seaboard; and you mentioned, among other things, that the water carrier was the initial carrier. You regard that as an important matter, do you?

A. It seemed to me, taken into consideration with all the facts I have connected it up with, yes; that it was very important indeed.

Q. Do you think that the fact that the traffic can first be consolidated into a ship and then finally distributed by rail, makes the line stronger than as though it were originally done by rail and then consolidated in a ship?

A. I think in this particular case, that circumstance was a very important one. I would not be willing to say that in all cases that might be so. There might be created a very different set of conditions, you know, that might reverse it.

Q. We took some testimony, as you may know, in this case, in San Francisco. I suppose you have read it, haven't you—the testimony of a large number of merchants?

A. I don't know. I have read some of it. I heard you were there.

Q. A large number of shippers and important merchants out there on the coast testified; and it appeared by that testimony that your road was seeking east-bound traffic, also, by the Sunset Route, from California to New York; that is true, isn't it?

A. Yes, sir.

6628 Q. Now, the rail line was the initial carrier in that case, wasn't it?

A. That is right.

Q. But you succeeded in getting a lot of business in that way, didn't you?

A. Quite a good deal.

Q. All you could?

A. But we originated it, don't you understand?

Q. I understand; you originated it, and built it up into a very strong line, didn't you?

A. I think so.

Q. I think so, too. And in getting that business, you were necessarily occupying a position that was competitive with the rail lines east to New York, weren't you?

A. We competed in one sense, part of the way, against ourselves.

Q. Yes, I understand your point. But you competed for the business; you tried to move the business by the Sunset Route, didn't you? As you say, you originated it, built it up, made it a good line—or I said you made it a good line.

A. That is good; we did.

Q. And you tried to move the business that way?

A. Not all of it, but we tried to move that which could move that way with success; not all of it. There was a great deal of it we didn't try to move that way.

Q. And in that effort to move that business, you met with the competition of the Union Pacific, which was in San Francisco, didn't you?

Mr. DUNNE. You are asking the witness if he met with the competition of the Union Pacific agent in San Francisco. You are calling for his opinion, really.

6629 Mr. SEVERANCE. What have we had but opinions?

A. I do not see how it can be stated in that way—the competition of the Union Pacific agency in San Francisco.

Q. If you can't understand that, I will put the question a little differently; I think it will suit Mr. Dunne a little better.

A. All right. Make it as easy as you can.

Q. I will make it as simple as I can, appreciating that I have a witness to whom I must be simple in my questions. The Union Pacific organization maintained a traffic agency in San Francisco, did they not?

A. I think so.

Q. Still have, haven't they?

A. Yes.

Q. And the Southern Pacific had its agency in San Francisco?

A. Yes.

Q. And you regard a soliciting agent or a soliciting agency as very valuable in securing traffic, don't you? You have so stated, have you not, on the stand in this case?

A. I think it would puzzle you to find where I so stated it. I said they were valuable, and I still think they are valuable.

Q. Do you remember that in the course of an argument that you made——

A. I know we have had some difference of opinion as to the nature of the value of the soliciting agent; you and I differed on that. However, so far as that is concerned we will make this answer to that——

Q. What will you say?

A. That the agents of the Union Pacific road were undertaking to get business over the Southern Pacific line—the joint line of the Union Pacific and the Southern Pacific.

Q. The Union Pacific agency was trying to route business to
6630 points on the seaboard, over the Southern Pacific line to Ogden and thence over their line?

A. That is right.

Q. And its eastern connections?

A. That is right.

Q. The Southern Pacific agency was trying to move the business, so far as it could, to the Atlantic seaboard by the Sunset Route?

A. Sometimes.

Q. Where the business would properly move that way?

A. Sometimes, not always.

Q. Where it could properly move that way?

A. Yes, that is right.

Q. Because you wanted 100 per cent of the haul, didn't you?

A. That is right.

Q. And so far as you were successful in getting the business that way, the Union Pacific didn't share in any of that revenue, did it?

A. That is right.

Q. You stated today, in answer to Mr. Dunne, when he was interrogating you with reference to the Portland route, so called, that that was an impracticable route. When Judge Lovett asked you that question in Chicago, you said "No, I wouldn't say the route is impracticable, but I would say that it would be inefficient as compared with the all-rail route." Why have you changed your opinion?

A. Well, you can make my answer today that way. Probably I am a little more exact in the one case than in the other. I think probably they come to the same end. When you consider the line in its relationship to capacity of doing the business or getting the business, it is an inefficient line, and I don't know but I would
6631 be quite willing to substitute the word "impracticable" for "inefficient" in both cases. It is a matter of opinion, of course. I think it is an impracticable route; so do you.

Q. You stated, during one of your examinations in this case, that if the rate was put down by way of Portland, the rate would go down all along the line?

A. I think so.

Q. You still think that, don't you?

A. Yes, sir.

Q. Now, so there will not be any mistake about what you intended to say with reference to Mr. Blye's figures, you stated that in 1895 the Sunset Route took out of New York proper 79 per cent of the transcontinental and Asiatic traffic, and that had gone down in 1901 to 39 per cent. Now, those statistics included all business moving from New York City to all of the transcontinental territory, beginning with the Mexican border and running up to British Columbia, and also the Asiatic business, didn't it?

A. That is my understanding of it.

Q. I think you stated that one reason for the lesser percentage in 1901 than in the earlier years, was because of the great development of the Northwest served by the other lines?

A. Yes.

Q. All of which tonnage was included in the total?

A. That is right.

Q. The Sunset takings, however, on California business had not decreased had they? I mean, not percentage of the whole business, but the actual tonnage of the Sunset line had increased, hadn't it?

Mr. DUNNE. You mean the absolute tonnage as distinguished from the relative?

Mr. SEVERANCE. Yes.

A. Yes. I don't know that I would want to say that the
6632 absolute tonnage of the Sunset business to California had increased, although that may be true.

Q. Do you know what the fact is about that?

A. I do not know, Mr. Severance, but——

Q. Well, if you don't know——

A. Well, let my answer stand as it is, unless you want—I was going to explain it——

Q. I don't care for an explanation; if you say you don't know, that is all right.

A. That is, I don't know absolutely whether during all these years we show a decreasing percentage in total; whether the absolute tonnage of the Sunset increased or not. It may have done so in one year and fallen off the next. I cannot answer, because my attention has not been called to that and I have not looked it up. But it is a thing that we can easily get for you.

Q. That is all right. I merely wanted to know if you were in possession of the facts. You stated, in answer to Mr. Dunne, that after the Sunset Route was put on, the other lines here woke up—the all-rail lines woke up and commenced to seek business more energetically; did I so understand you—gave better service?

A. Yes, I said that it had the effect—I meant to say, and will say now, that it had the effect of stimulating the lines, particularly east of Chicago, to better endeavors.

Q. Did it have any effect on the Union Pacific?

A. I don't think the Union Pacific was greatly at fault previous to this. They did the best they could but they were handicapped by the indifference of their eastern connections.

Q. And they continued to do the best they could to get the
6633 business, didn't they?

A. I think so; that is, they continued to give good service—tried to.

Q. And they continued, through their soliciting agents here in New York, to actively solicit that business—just as so many men have testified, didn't they?

A. I don't think they ever ceased to solicit the business.

Mr. DUNNE. That is, for the joint line.

WITNESS. For the joint line, yes. I suppose that is taken for granted. We might just as well not bandy words on that. The Union Pacific couldn't get into California without the use of the Central Pacific. The Union Pacific agent couldn't solicit business for his line without soliciting for the Southern Pacific.

Q. And if the Southern Pacific agent secured the business and sent it by the Sunset, the Union Pacific got no share of it? We can add that, can't we?

A. You can add that, too, if you choose.

Q. Well, we will put that in, too.

A. All right.

Q. So the only way the Union Pacific could get any revenue out of transcontinental business was to move it over its line and thence over the Southern Pacific?

A. I should think so.

Q. You stated, in answer to Mr. Dunne, that the time of the Panama route, at the time you inaugurated the Sunset line, was about 45 days, did you not, from here to San Francisco?

A. I did not say it in connection with the Sunset Route. What I said was that at the opening of the overland route, the time was about 45 days.

Q. Wasn't it about the same at the time of the opening of the——

6634 A. I think so. I am not sure.

Q. As a matter of fact, isn't it about the same now?

A. I don't know of any improvement in it. I couldn't be sure about that.

Q. Do you know whether the Pacific Mail Steamship Company has done anything to accelerate that movement in the last few years?

A. I don't know anything about what the Pacific Mail has done. I would not pretend to answer.

Q. Although your company owns a majority of the stock, you know nothing about their business?

A. No, not about the business.

Q. Nothing at all?

A. There are a whole lot of things connected with our company that I don't know anything about.

Q. But the fact is, you are advised as a traffic man, that the Panama route, owing to the character of the service on the Pacific side of the Isthmus, is about as slow as it was thirty years ago?

A. I don't know anything about it. My impressions are that if you were to pursue that inquiry with Mr. Schwerin, you would find where the fault was and that it wasn't with him.

Q. Well, we will try it with Mr. Schwerin, if we get at him again. The American-Hawaiian line gives a very much better service, does it not, between here and San Francisco?

A. I so understand it.

Q. And you find that an active factor in the competition for transcontinental business?

A. I think it would be so regarded by us all.

6635 Q. Do the transcontinental lines have any arrangement with the American-Hawaiian line as to the rates it shall put in?

A. No.

Q. Entirely independent, is it?

A. Yes.

Q. In connection with the Portland route, you were speaking about the fact that the business from Portland can only reach the Bay points. What are the principal wholesaling points in northern California?

A. San Francisco, Sacramento, Stockton.

Q. Those points can be reached by water?

A. I think so. I know so, sir.

Q. How is that?

A. I said "I think so" and then I corrected it by saying that I know that it is true, that they can be reached by water.

Q. And the San Francisco merchants and Sacramento merchants wholesale in all directions, do they not,—north, south, and east?

A. They do.

Q. Now, the traffic that goes out to the retail dealers along the line of the Southern Pacific, over to Salt Lake, perhaps, or through Nevada and in California, north of the Tehachape, and up in northern California, toward Oregon, all moves on local distributing rates, doesn't it?

A. Everything that goes from Sacramento.

Q. From those jobbers?

A. Yes.

Q. From Sacramento or San Francisco?

A. Yes, that is right.

Q. And most of the merchants in the territory I have indicated roughly, get their supplies from San Francisco and Sacramento merchants, do they not, to a large extent?

A. I think that is right.

6636 Q. And you adjust your rates to Utah common points, from San Francisco, with a view to having traffic distributed to the retailers through from San Francisco, don't you?

A. From the beginning there has always been a certain relation between the rates from San Francisco or Sacramento and Ogden and Salt Lake City, and the rates from Omaha to Salt Lake City.

Q. 75 per cent?

A. I think it is changed. I don't know what it is today. At one time it was 86 per cent. I think it is changed. I believe it is 75 per cent. I am not sure. I ought not to attempt to answer

whether it is 75 per cent of the rate from Chicago or 75 per cent of the rate from Omaha. There is a certain relation there.

Q. There is a certain relation there; and that is put in to enable the San Francisco and Sacramento merchants to compete with the merchants along the Missouri River, isn't it, in that territory?

A. It is to enable them to reach that market with their wares.

Q. That is what I say.

A. Yes.

Q. In competition with the wholesale merchants in the East?

A. Anywhere. It might be with the products locally.

Q. Well, chiefly in the East, isn't it?

A. It is to enable them to sell their goods there; and of course whatever influences operate against that, this is intended to meet.

Q. That is right. That is to say, the San Francisco merchants very largely import their goods from the seaboard, don't they, or the eastern states generally, we will say?

A. Yes.

6637 Q. Then they in turn want to wholesale that out into the country; and you endeavor to adjust your rates to let them into this intermountain territory around Salt Lake, in competition with the merchants to the east who ship into that territory, isn't that true?

A. If you will excuse me, I think I know what you are getting at; but I prefer to state it in my way, because I think it is more accurate.

Q. I presume you will, Mr. Stubbs, because you are the witness.

A. The rates between San Francisco, the California jobbing points, on the one hand, and Omaha on the other hand, to Utah common points, bear a certain relation each to the other, and always have; that is, for a long time. Just what that relation is at present I do not know. I have been out of the rate business, you know, for some time, that is, the technical part of it. But it is not true that there is any material, if any competition at all, between the jobbers of San Francisco and the jobbers of Omaha or any other eastern point, on goods which are manufactured in the East and taken by any route to San Francisco. In the early days there was such a business, but that has been dissipated for a long time. I do not think that the amount of business that is distributed by the California jobbers into Utah, which originated in the eastern territory, for years has been worth noticing. There may be sporadic cases of that, but, generally speaking, my statement is correct; at least it represents my belief in the matter.

Q. Do you know Mr. Luce?

A. I have heard of him. Yes, I know him.

6638 Q. You say you have been out of the rate business for some time and you could not undertake to speak very technically

about these intermountain rates. Mr. Luce is right in it still, isn't he?

A. He is the general freight agent of the Southern Pacific, Pacific system; he ought to know about it.

Q. Would the fact that in a case now pending before the Interstate Commerce Commission, Mr. Luce a very short time ago testified as follows, affect the opinion you have just given? He was testifying concerning the rate from Sacramento and San Francisco to Nevada and Utah points, and was asked a question by the Southern Pacific counsel as follows: "Then, as I understand it, Mr. Luce, the San Francisco-Ogden rate was made upon the basis of 75 per cent of the Missouri River rate and upon the full measure of the Colorado-Ogden rate, in order to enable the San Francisco shipper or manufacturer to compete with those other communities into the Utah common territory?"

"Mr. LUCE. That was the precise reason. We endeavored to carry that business from San Francisco-Sacramento to Ogden and Salt Lake, instead of its being handled from the Missouri River direct to those points and from Denver." Now, you gave an opinion directly to the contrary, as I understood you a moment ago. Wouldn't you want to correct that, in view of Mr. Luce's statement?

A. I should still let my statement stand, as representing my belief and knowledge.

Q. Your opinion?

A. I think if you would get down to the particular business
6639 that Mr. Luce was talking about, you might find that there was not so much difference between what he said and what I say.

Q. Of course it was a different kind of a case. When Mr. Luce gave his testimony it was a question of maintaining your rates. I thought possibly that opinion might change the one you just gave, from the fact that it seems to be diametrically opposite.

A. Well, I know, as a matter of fact, that there has been a very great change. When I first went to California, California did a great deal of business with Utah over the Central Pacific.

Q. In answer to counsel, you were speaking of the distance to San Francisco by way of Portland, in case for any reason whatever the Union Pacific should ever want to work that route, and you spoke of the fact that it was a good deal longer route from the Missouri River around by Portland and the boat, than from the Missouri River direct through to San Francisco. A mere matter of distance does not always affect the ability to compete, does it?

A. If you will refer to what I have said, I spoke in terms of contrast. I spoke in days rather than in distance. That is what I meant, and I intended that my testimony should so read. I think you will recall that I said that the five days' additional time required to send it (and that is the minimum) via Portland, was fully one-half of the time required for the total movement from Omaha to

San Francisco. I don't think that the length of the haul is always the controlling factor. It is the question of time.

Q. If the matter of length of haul were a controlling factor, the Sunset route couldn't do any business at equal rates, could it, 6640 because it is many miles longer?

A. You know very well I would not advance that theory.

Q. And it is a matter of fact that the route from Salt Lake via Omaha, by the Burlington and the Denver and Rio Grande, is about 300 miles longer than the direct line by the Union Pacific?

A. Yes.

Q. But they compete vigorously for business, don't they?

A. I would not advance that reason by itself considered, you know, as itself controlling. I don't think any practical man would. But there are a number of considerations that enter in. Those that I gave are more controlling. The main feature of it is, that it was not to the interest of the Union Pacific road to do it.

Q. So far as you know, they never felt it was to their interest to try to work traffic that way?

A. I think it was obvious that they felt that way about it.

Q. You spoke about the rate-making and of the Transcontinental Freight Bureau. When was that organized?

A. It is too far back for me to recollect. Some years ago.

Q. What was it succeeded by, if anything?

A. I don't know that I can give you what the title of it is today.

Q. But there is a similar organization today, isn't there?

A. Yes, practically.

Q. And the various transcontinental lines unite in a common tariff, and all sign that tariff, don't they?

A. Yes, sir.

Q. Not only the lines to California, but the lines to Puget 6641 Sound and Portland?

A. Yes.

Q. And the Canadian Pacific to Vancouver?

A. Yes.

Q. They all unite in a common transcontinental rate?

A. Yes.

Q. And that rate is arrived at, as I think you testified at one time in this case, by conference?

A. Yes.

Q. The rates have always been fixed in conference? Well, I won't say "always," because there might be a rate war. But ordinarily they are fixed in conference, at which all the lines are represented—all the lines interested?

A. No, that is only possible in recent years. I think, to go back to the early days, at the time I spoke of——

Q. Well, take it for the last fifteen years.

Mr. DUNNE. Don't interrupt him.

WITNESS. I say, going back to the early days, in the early '80s, the latter part of the '70s, I think that we put in a tariff without any conference with any of our connections.

Q. Yes, but we will say in the last fifteen years. It has been the fact, hasn't it, that——

A. That is right.

Q. Now, in fixing that through rate, the lines to the north Pacific points are considered, are they not? their views are considered?

A. I think that they are members of the Assocation now.

Q. And their views are considered, and they all have a vote on the question.

A. Naturally.

Q. And the same kind of commodities are moved to north Pacific coast points that are moved to California points?

A. I think so.

6642 Q. And moved under the same rate?

A. Not always.

Q. Quite usual, though?

A. I suppose there are differences today, and there have been times when the differences were quite general.

Q. Class rates are the same?

A. I think so.

Q. And the bulk of the commodity rates, are they not?

A. I cannot answer as to that. I believe that more of them are alike than unlike. I will say that much.

Q. Many more are alike than unlike, are they not?

A. I am not an authority on that.

Q. You would not undertake to say on that?

A. You can get other people to speak on that. I want to be accurate. I do not want to mislead you, nor to be misled myself.

Q. Then, leaving out the matter of the rate here or the rate there, the fact is that it is the general policy that the transcontinental rates to all the Pacific coast terminals shall be uniform, isn't it?

A. I should think so. It ought to be so. But we are not always able to bring that about. There is quite a good deal of difference.

Q. But it is usual?

A. Usually they are. That is true. We try to make them so. We are constantly endeavoring to do that.

Q. And those towns out there like Portland, San Francisco and Los Angeles—we will take Portland and San Francisco first—are wholesaling into the same territory to a large extent, are they not?

A. To some extent. Not so much so today as they were formerly.

Q. And that is one reason for keeping the rates to the coast

6643 uniform, is it not?

A. I think it has its influence.

Q. So that all of these things, that is, the interests of all of these communities, and the interests of the various transcontinental lines, are all considered when you come to make up a schedule of rates?

A. The representative at these meetings, of every road that is a member of the Association, has his opportunity to express his views and his judgment about it, and his desire; and if it is a question that is found necessary to put to a vote, he has an opportunity to put his vote.

Q. Now, the fact that the rates are determined this way, in conference, and are uniform, outside of whatever friction may exist in the meetings, fixing the rates, reduces the matter of competition very largely, does it not, to a question of service and solicitation—seeking to get the business by giving good service, by settling claims promptly, and doing other things?

A. I know. But understand that in making these rates in these conferences, even these class rates and these commodity rates, it remains true that they could not be made, so far as California is concerned, without the consent of either or both of the terminal lines.

Q. Now, I have never before thought you were a man of one idea, and we won't forget that point. But I would like you to answer my question. I say, outside of any friction there may be in these meetings, isn't it a fact that the principal element in competition between lines now is the competition in service and in solicitation for business?

A. Read the whole preamble there. (This remark was made to the reporter.)

6644 Q. Now, that is a sufficient question.

A. Well, I want to hear what you said. He has got it down there. I am entitled to hear it.

(The question was read.)

A. Well, they certainly are elements, and important elements; but whether they were all or not I wouldn't want to say.

Q. I think that is a fair answer. Now, you spoke about the time that the Santa Fe went up to San Francisco Bay over the Southern Pacific line. You said they had some kind of an arrangement, with a right to get a trackage contract, which they never exercised. What was the arrangement between the two companies?

A. This was in 1885, I believe?

Q. Yes.

A. After the Santa Fe had completed its purchase under a contract for lease or purchase, because the full transfer could not be made as long as the bonds were out, the Southern Pacific bonds——

Q. You mean the Needles branch?

A. The Needles branch.

Q. They have a hundred years' lease, haven't they?

A. That put them into Mojave. Then they wanted to get into Stockton, Sacramento and San Francisco; and we made a connecting line contract with them, agreeing to interchange traffic with them

upon the same terms that we interchanged with any other connection, subject to certain divisions of the through rates; and with that we gave them a right, upon 90 days' notice, or six months' notice, to enter upon a joint use of that track from Mojave to San Francisco, in consideration of certain terms. That is what I have referred to.

6645 Q. Then, as I understand it, the Santa Fe did not take the traffic into San Francisco with their own power, but they turned it over to you at Mojave?

A. At Mojave; that is right; a connecting line, just the same as——

Q. And they sought San Francisco business, bringing it as far as Mojave and then turning it over to you?

A. Turning it over to us, and billing it through. We interchanged with the Santa Fe at Mojave, just as we interchanged with the Union Pacific at Ogden.

Q. And they afterwards acquired the San Joaquin Valley line and built their own line in?

A. Built their own line in.

Q. And made an arrangement with you over the Tehachapi Pass?

A. We gave them trackage rights.

Q. From Mojave to Bakersfield; is that right?

A. That is right.

Q. And that is still in force?

A. That is still in force.

Q. But previous to the time that the Santa Fe made that arrangement with you for the interchange of business at Mojave, had they been in the market for San Francisco business?

A. Yes; in connection with our own line. The interchange was at Needles, between our Needles line and the Atlantic-Pacific.

Q. They had been seeking transcontinental business previous to that time and turning it over to you at Needles?

A. In 1881, when they connected with us at Deming, they made a through line, and they sought business; and afterwards they connected with the—when the Atlantic & Pacific was completed to

6646 Needles, for the time being, that made a line; the Santa Fe east of Albuquerque, the Atlantic & Pacific west to the Needles, and the Southern Pacific from the Needles on.

Q. When did the Santa Fe build to San Diego?

A. I didn't look that up. That line was built by another party and sold—he busted and he built it and then it was sold, not to the Santa Fe people, but to some people that were interested in the Santa Fe, and they had a hard time with it, had to rebuild it, change its line, and finally I think they rebuilt it and connected it up with the Barstow line and sold it to the Santa Fe people.

Q. Was that previous to your contract in 1885?

A. No; subsequently.

Q. Subsequently?

A. That is my understanding, subsequent to that. That line was hawked about for sale. They wanted somebody should buy it.

Q. So they got into San Francisco through this arrangement with you, before they had a line to tidewater themselves, unless you regard Los Angeles as tidewater?

A. I think so; yes, sir. I don't think they got down to San Diego, and yet I am not sure that they did not have that line or a connection with that line to San Diego before they completed their own line to Los Angeles. But they had an interchange arrangement with us from San Bernardino into Los Angeles, immediately upon getting possession of the Barstow line. I don't know how important that is. I think I can dig up those dates, if you consider it important.

Q. I didn't know but you might remember?

A. No; I don't remember.

6647 Q. You say that in 1870 the first-class rate to California was $6 a hundred; what was the Panama rate at that time?

A. I don't remember.

Q. That fluctuated, didn't it?

A. Yes. They had their scale, but I can't tell you anything about that. I don't remember. According to my recollection, for some time the Panama route was able to maintain a pretty steady tariff because of the limited tonnage that they could carry in their vessels. The real controlling factor as to rates was the Cape Horn route.

6648 By Mr. KELLOGG:

Q. Will you please describe the Central Pacific railroad as it was originally constructed and the lines it owned in California, indicating on this map which is Complainant's Exhibit 107, opposite page 1015 of the record?

A. The Central Pacific proper was built eastward from Sacramento to Promontory. The Union Pacific was constructed westward through Ogden to Promontory. There is where the rails were joined. The Central Pacific had graded east of Promontory for some distance—how far I cannot say. The Union Pacific had graded west of Promontory almost to Wells. A controversy arose between the two companies as to what should be the junction point. It was finally settled as a point five miles west of Ogden, and the Union Pacific gave to the Southern Pacific or Central Pacific a perpetual lease of the use of that five miles so as to make the terminus at Ogden.

Q. Now take the western line from Sacramento.

A. From Sacramento down through Stockton, Niles, to San Jose was the Western Pacific which in 1870 was purchased by the Central Pacific and finally consolidated in the Central Pacific Railroad Company. Then there were some lines built from Niles—I think they

were independent. I don't recall just how—into Oakland, and they were also purchased by the Central Pacific people and consolidated. That was the original Central Pacific line. Now, north from Roseville Junction, which is 18 miles east from Sacramento, the California & Oregon road was built, which was a Central Pacific property, and under that corporate title went to the Oregon State
6649 line, where it joined the line that was built south. It had been built originally by Ben Holliday, under the title of the Oregon & California road. From Lathrop, which is 10 miles west of Stockton, the Central Pacific built a line down through Merced and Fresno to Goshen.

Q. The Central Pacific's line from Lathrop is the central one of these blue lines on the map referred to?

A. That is right: Central Pacific down to Merced.

Q. And the eastern line from Merced down?

A. Yes, down here to Goshen. This was the Southern Pacific line from San Jose south. They expected to build across over there, but they never completed that link. (Pointing on map.)

Q. The line from Lathrop down to Goshen, when was that built?

A. Very early in the seventies.

Q. And ever since has been in the Central Pacific?

A. I understand it is still part of the Central Pacific property.

Q. And all the other lines there——

A. All the other lines are under some other corporate title; I don't know what they are. I would have to dig that up for you.

By Mr. DUNNE:

Q. Mr. Stubbs, I do not think of anything to ask you particularly, except that Mr. Severance asked a question whether the cotton from the south that went to the Orient did not go through San Francisco, Portland and the northern Puget Sound points. Now, so far as the Union Pacific and the Southern Pacific are concerned, isn't it the fact that substantially all of that cotton that went to the Orient and in the movement of which the Union Pacific participated at all, went by Ogden and the Southern Pacific through the port of
6650 San Francisco—the bulk of it?

A. Well, I don't remember as to that. I would like to refresh my memory on that between now and the next hearing.

Q. All right, Mr. Stubbs. That is my advice as to how it moved—that it moved through San Francisco.

A. I was generally under the impression that the cotton that we moved to the Orient originated on our own lines in Texas and went out by the Southern Pacific. And I think that is true as to the bulk of it, that it moved by San Francisco.

An adjournment was then taken until the morning of Wednesday, February 16, 1910, at 10.30 o'clock.

6651 ROOM 720, CUSTOM HOUSE, NEW YORK CITY,
Wednesday, February 16, 1910, 10:30 a. m.

The hearing was resumed before the Special Examiner, Hon. Sylvester G. Williams, at the above time and place.

Present: On behalf of the Complainant, Mr. C. A. Severance, Mr. Frank B. Kellogg, Mr. G. E. Husted; on behalf of the Defendants, Mr. Peter F. Dunne and Mr. N. H. Loomis.

J. C. STUBBS,

recalled in behalf of the Defendants, testified as follows:

By Mr. DUNNE:

Q. Mr. Stubbs, I recall that Mr. Severance inquired yesterday concerning Asiatic traffic, and the comparative proportion of the Sunset-Gulf tonnage in the Asiatic tonnage; and I will begin with a statement which I have marked as "Sub-Division 'A'". I will ask you to identify it; and you may indicate the Auditor's statement supporting it, if you have it there. Have you a statement of the west-bound Asiatic tonnage, volume and revenue, U. P. via Portland, and the S. P. via the Sunset-Gulf?

A. I have such a statement.

Mr. DUNNE. It is a very short statement, and I think, if there is no objection, I will ask Mr. Stubbs to read it.

Mr. SEVERANCE. Who made it?

Mr. DUNNE. It was made by the Auditor.

Mr. SEVERANCE. Of what road? By Mr. Young?

WITNESS. No, by Mr. Stebbins.

Q. You might read that statement, Mr. Stubbs. It is very short, and I will have these papers marked.

A. This is a statement of the west-bound Asiatic traffic, and its volume and revenue, for the Union Pacific and Southern Pacific, via Portland, and via the Sunset-Gulf route; movement outward

6652 and inward.

Mr. SEVERANCE. When?

WITNESS. For the year ending June 30, 1901.

Q. Now will you just read that, please.

A. Via Portland, the total traffic was, tons 262; Union Pacific revenue $1,044.27; an average of 22 tons per month and $87.02. Via the Sunset-Gulf route, for the year ending June 30, 1900, (we couldn't get the figures for 1901), total traffic, tons 1,098; Southern Pacific revenue $24,789.92; average per month, 91 tons, $2,065.83.

Q. You have the Auditor's statement attached?

A. I have. That is simply a statement of the information that is embraced in the Auditor's statements that are attached.

Mr. DUNNE. I want to say, Mr. Severance, that for the Sunset-Gulf we have the Auditor's statement (Mr. Bartholomew's) which I will attach.

The statement just testified to by the witness was marked Defendants' Exhibit 45, and is as follows:

6653 DEFENDANTS' EXHIBIT 45.

(Stubbs.)

Lovett's question No. 13.

Sub-Division "A"

WESTBOUND ASIATIC TRAFFIC.

Volume and U. P. and S. P. Revenue via Portland and via Sunset-Gulf Route

Movement Outward ~~and Inward~~

(For Year ending June 30, 1901)

Via Portland:

Total Traffic	Tons	262	U. P. Revenue	$1,044.27
Average per Month	"	22	" "	87.02

(For Year ending June 30, 1900)

Via Sunset-Gulf Route:

Total Traffic	Tons	1,098	S. P. Revenue	$24,789.92
Average per Month	"	91	" "	2,065.83

Authority: For traffic via Portland. Auditor's statements attached. For traffic via Sunset-Gulf Route. Statement of Auditor Atlantic S. S. Lines, Jan. 12, 1910.

6654 *Statement of tons carried and freight revenue of the Union Pacific system, on westbound freight traffic between the Orient and various eastern territories via Portland, Oregon, for the fiscal year ending June 30, 1901.*

From—	Via—	Tons carried.	U. P. Sys. freight revenue.
Missouri River common points territory ...	Granger		
	Salt Lake City		
	Spokane		
	Wallula		
	Total		
Mississippi River common points territory.	Granger	16.10	150.57
	Salt Lake City		
	Spokane		
	Wallula		
	Total	16.10	150.57

Statement of tons carried and freight revenue of the U. P. system, etc.—Cont'd.

From—	Via—	Tons carried.	U. P. Sys. freight revenue.
Chicago and common points territory	Granger		
	Salt Lake City	140. 69	689. 37
	Spokane		
	Wallula	105. 00	196. 66
	Total	245. 69	886. 03
Cincinnati, Detroit, and common points territory.	Granger		
	Salt Lake City		
	Spokane		
	Wallula		
	Total		
Pittsburgh, Buffalo, and common points territory.	Granger		
	Salt Lake City		
	Spokane		
	Wallula		
	Total		
Boston, New York, and common points territory.	Granger	. 16	7. 67
	Salt Lake City		
	Spokane		
	Wallula		
	Total	. 16	7. 67
Total	Granger	16. 26	158. 24
	Salt Lake City	140. 69	689. 37
	Spokane		
	Wallula	105. 00	196. 66
Grand total		261. 95	1, 044. 27

6655

	Total tons carried.	Gross operating revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System for year ending June 30, 1901	8, 209, 209	43, 538, 181. 01
Ratio of Westbound Oriental Freight Traffic via Portland to total tons of freight carried by and gross operating revenue of Union Pacific System	0 003%	0 002%

NOTE.—Union Pacific System includes Union Pacific Railroad Company, Oregon Short Line Railroad Company, and the rail and water lines of The Oregon Railroad & Navigation Company. Owing to the destruction of certain records by fire, the total tons carried have been partially approximated. The gross operating revenue is correct.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor
Union Pacific System and Southern Pacific Company.

6656 *Statement of tons carried and freight revenue of the Union Pacific System, on eastbound freight traffic between the Orient and various eastern territories via Portland, Oregon, for the fiscal year ending June 30, 1901.*

To—	Via—	Tons carried.	U. P. Sys. freight revenue.
Missouri River common points territory..	Granger	239. 68	2, 921. 32
	Salt Lake City		
	Spokane	25. 40	109. 46
	Wallula	109. 53	337. 31
	Total	374. 61	3, 368. 09
Mississippi River common points territory.	Granger	917. 16	9, 725. 39
	Salt Lake City		
	Spokane	62. 85	261. 11
	Wallula	36. 85	125. 34
	Total	1, 016. 86	10, 111. 84
Chicago and common points territory	Granger	201. 23	2, 061. 24
	Salt Lake City		
	Spokane	347. 19	1, 308. 35
	Wallula	58. 36	195. 85
	Total	606. 78	3, 565. 44
Cincinnati, Detroit and common points territory.	Granger	178. 76	1, 931. 31
	Salt Lake City		
	Spokane	68. 55	226. 37
	Wallula	16. 07	41. 95
	Total	263. 38	2, 199. 63
Pittsburgh, Buffalo and common points territory.	Granger	163. 46	1, 624. 07
	Salt Lake City		
	Spokane	76. 25	237. 82
	Wallula	52. 09	136. 45
	Total	291. 80	1, 998. 34
Boston, New York and common points territory.	Granger	2, 935. 78	28, 119. 14
	Salt Lake City		
	Spokane	836. 05	2, 715. 90
	Wallula	149. 80	447. 58
	Total	3, 921. 63	31, 282. 62
Total	Granger	4, 636. 07	46, 382. 47
	Salt Lake City		
	Spokane	1, 416. 29	4, 859. 01
	Wallula	422. 70	1, 284. 48
Grand total		6, 475. 06	52, 525. 96

	Total tons carried.	Gross operating revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System for year ending June 30, 1901	8,209,209	43,538,181.01
Ratio of Eastbound Oriental Freight Traffic via Portland to total tons of freight carried by and gross operating revenue of Union Pacific System	0 08%	0 12%

NOTE.—Union Pacific System includes Union Pacific Railroad Company, Oregon Short Line Railroad Company, and the rail and water lines of The Oregon Railroad & Navigation Company. Owing to the destruction of records by fire the total tons carried have been partially approximated. The gross operating revenue is correct.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor
Union Pacific System and Southern Pacific Company.

6658 Q. I will now take up what I have marked "B". What is that statement?

A. That is traffic between San Francisco and Portland, the volume and earnings on the Union Pacific and Southern Pacific lines, respectively, for the year ending June 30, 1901.

Q. Will you give us the figures please?

A. Oregon Railroad and Navigation Company, tons 76,700; earnings $217,050.55; Southern Pacific, 25,879 tons, earnings $110,691.80; a total of 102,579 tons; revenue as described, $327,742.35; being an average per month for the O. R. & N. of 6,392 tons, earnings $18,087.54; and for the Southern Pacific 2,156 tons, earnings $9,224.32 per month; a total average of 8,548 tons per month; total earnings, average $27,311.86 per month. The showing for the O. R. & N. is taken from the Auditor's statement. The showing for the Southern Pacific is an estimate which assumes that the movement by rail for 1901 was equal to the average movement for the years ending June 30, 1907 and 1908,—an assumption very much against us, and applying a rate of $4.20 per ton, that being the average rate for the years last above named. This showing is, at best, only a guess, but the guessing is an over-estimate rather than an under estimate.

Q. I would like to ask you why it is that you have been obliged to go upon an estimate basis in reference to the Southern Pacific?

A. Because of the total destruction of the records of the Southern Pacific by fire.

The statement just testified to by the witness was marked Defendants' Exhibit 46, and is as follows:

6659 DEFENDANTS' EXHIBIT 46.

(Stubbs.)

Lovett's question No. 13.

Sub-Division "B."

TRAFFIC

Between San Francisco and Portland, Volume and U. P. and S. P. Earnings, for Year Ending June 30, 1901.

O. R. & N. Co	Tons	76,700	Earnings	$217,050.55
Southern Pacific	"	25,879	"	110,691.80
Total		102,579	"	$327,742.35
O. R. & N. Co. Avg Per Month	Tons	6,392	Earnings	$18,087.54
Sou. Pac. Co. Avg Per Month	Tons	2,156	"	9,224.32
Total		8,548		$27,311.86

Authority: The showing for the *O. R. & N. Co.* is taken from Auditor's statement.

The showing for the *Southern Pacific* is an estimate which assumes that the movement by rail for 1901 was equal to the average movement for the years ending June 30, 1907 and 1908 (an assumption very much against us), and applying a rate of $4.20 per ton, that being the average rate for the years last above named. This showing is, *at best*, only a guess, but the guessing is an over estimate rather than an under estimate.

6660 *Statement of tonnage and Union Pacific System (The Oregon Railroad and Navigation Company's) revenue on freight traffic handled by The Oregon Railroad and Navigation Company's Steamship Line between San Francisco and Portland locality (not including traffic to or from points beyond Portland) for the fiscal year ending June 30, 1901.*

From San Francisco to Portland.		From Portland to San Francisco.		Total.	
Tons carried.	Steamship revenue.	Tons carried.	Steamship revenue.	Tons carried.	Steamship revenue.
44,724	131,860.00	31,976	85,190.55	76,700	217,050.55

	Total tons carried.	Gross operating revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System, for year ending June 30, 1901 (see note).....	8,209,209	43,538,181.01
Ratio of local freight traffic handled by O. R. & N. Co.'s Steamship Line between San Francisco and Portland to total tons of freight carried by and gross operating revenue of Union Pacific System.....	0.93%	0.50%

NOTE.—Union Pacific System Lines include Union Pacific Railroad Company, Oregon Short Line Railroad Company, and the rail and water lines of the Oregon Railroad & Navigation Company. Owing to the destruction of certain records by fire, the total tons carried have been approximated. The gross operating revenue is correct.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor
Union Pacific System and Southern Pacific Company.

6661 Q. Now with reference to the Willamette Valley traffic, which is marked "D"?

A. "Sub-Division 'D.'" Willamette Valley Traffic, year ending June 30, 1901. Excluding traffic to and from local points on Union Pacific system, rail and water lines, west of Ogden. Via O. R. & N., tons 37,066; Union Pacific system earnings $120,291.39; monthly average 3,088 tons, $10,024.28. From that is deducted as non-competitive 30,474 tons, the revenue from which is $83,481.02; remaining, said to be competitive, 6,592 tons, earnings $36,810.37; average per month 559 tons, $3,067.53. Via the Southern Pacific, estimated average per month 2,120 tons, earnings $12,196.50. Total average per month, 2,669 tons, earnings $15,264.03. The authority for this is the O. R. & N. Company's Auditor's statement which is attached. For the Southern Pacific, the tonnage is estimated at 50 per cent more than steamship tonnage, and the earnings are computed at 90 cents per ton higher than the rate via O. R. & N. Co.

Q. I notice an expression in this statement, "Deduct non-competitive." But before I take that up, I want to take your mind back for a moment to "Sub-Division 'B,'" traffic between San Francisco and Portland, and to ask you as to whether that freight business in your judgment was competitive?

A. I hold that it was non-competitive as between the Southern Pacific and the steamship lines.

Q. I will ask you to state your basis for that position.

A. My reasons for that statement are these: The steamship service between San Francisco and Portland is better than the rail service, with this single exception—that the rail service is daily while
6662 the steamship service is probably only once in five days. The points of delivery and taking at San Francisco and at Portland favor the steamship line. In the early opening of the Shasta route, we had some ambition to load our trains north bound, and made some attempts to get the business, but found that we absolutely could not take the business as against the steamship lines, but, besides this is the fact that there were outside competitors with the O. R. & N.; other steamship lines, and steam schooners, that made the rates not only unremunerative, but they were unstable; so, after several attempts to join in that business, we quit. And that was before this merger, so-called.

Q. That was before the year 1901?

A. Yes.

Q. Now I will ask you to explain, if you please, the expression "Deduct non-competitive," in sub-division "D," to which I called your attention.

A. That business which is deducted represents the tonnage to and from the paper mills at Willamette Falls, 15 miles above Portland, on the Willamette River. Those mills are on the west side of the river, and away from the reach of the railroad. They are served directly by boats. And we have never been able to take any of that business, in fact have not attempted to do it for many years; local to the steamship line.

Q. The O. R. & N.?

A. Yes.

Q. I notice also, in that same exhibit, the statement that the tonnage for the Southern Pacific, in the first place, is estimated. I suppose it is not necessary for me to repeat the question; I will just say, once again, I assume that was because of the destruction of the records that you made that estimate?

A. Because of the destruction of the records; and we made the best estimate possible.

6663 Q. What have you to say as to that estimate, that the tonnage for the Southern Pacific is estimated at 50 per cent. more than the steamship tonnage and the earnings are computed at 90 cents per ton higher than the rate via the O. R. & N. Company?

A. My best judgment is that that estimate is over-stated; that it represents a taking by the rail lines more than the actual, if we were able to get the actual. The difference in the rate is derived by taking the average difference. On less than car loads, the difference in the rates, by sea, by the O. R. & N. steamer and by rail is $1.20 per ton; on carloads it is 60 cents per ton. I have added the two together and divided them equally, giving me the result of 90 cents, which, in my judgment, is against us.

The paper testified to by the witness and identified as "Sub-Division 'D'" was marked Defendants' Exhibit 47, and is as follows:

6664 DEFENDANTS' EXHIBIT 47.

(Stubbs.)

Lovett's question No. 13.

Sub-Division "D"

WILLAMETTE VALLEY TRAFFIC

Year Ending June 30, 1901.

Excluding traffic to and from local points on Union Pacific System, rail and water lines, West of Ogden.

Via O. R. & N. Co	Tons	37,066	U. P. Sys. Earnings		$120,291.39
Average per Month	"	3,088	"		10,024.28
Deduct Non-Competitive	"	30,474	"		83,481.02
Remaining Competitive	"	6,592	"		36,810.37
Average per Month	"	549	"		3,067.53
Via Southern Pacific—Estimated Average Per Month	"	2,120	"		12,196.50
Total Average per Month	"	2,669	"		$15,264.03

Authority: For the *O. R. & N. Co.*, Auditor's statement attached.
For the *Southern Pacific:* Tonnage is estimated at 50% more than Steamship Tonnage, and the earnings are computed at 90 cents per ton higher than the rate via O. R. & N. Co.

6665 (b)

Statement showing tonnage and Union Pacific System freight revenue on freight traffic handled by Oregon Railroad & Navigation Company's Willamette River boats for the fiscal year ending June 30, 1901.

	Tons carried.	Union Pacific system freight revenue.
From San Francisco to the River	3,649	11,713.03
To " " from " "	23,992	71,899.58
From Ogden and Beyond to the River	592	16,615.54
To " " " from " "	388	7,175.82
From all other Points in Northwest to the River	755	3,912.49
To all other Points in Northwest from the River	7,690	8,974.93
Total to the River	4,996	32,241.06
" from " "	32,070	88,050.33
Grand total	37,066	120,291.39
Deduct the following traffic to and from the paper mills at Oregon City, which traffic is not competitive:		
From San Francisco to the River	2,512	6,553.68
To " from " "	20,104	56,557.75
From Other Points to the River	798	851.27
To " " from " "	[a] 7,060	[a] 19,518.32
Total	30,474	83,481.02
Balance	6,592	36,810.37

	Total tons carried.	Gross operating revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System for year ending June 30, 1901 (see note)	8,209,209	43,538,181.01
Ratio of competitive freight traffic handled by O. R. & N. Co.'s Willamette River boats to total tons of freight carried by and gross revenue of Union Pacific System.	0.08%	0.08%

[a] Approximated.

NOTE.—Union Pacific System includes Union Pacific Railroad Company, Oregon Short Line Railroad Company, and the rail and water lines of the Oregon Railroad & Navigation Company. Owing to the destruction of certain records by fire, the total tons of freight have been partially approximated. The gross operating revenue is correct.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor
Union Pacific System and Southern Pacific Company.

6666 Q. Now take the next, which is marked "Sub-Division 'E.'"

A. This relates to lumber and other traffic from Portland to Ogden and common points and beyond, via the Southern Pacific Company and the Denver & Rio Grande Railroad, and via the Union Pacific system, for the six months July, September and November, 1900, and January, March and April 1901. From Portland to points on and via D. & R. G. are: Via Southern Pacific, tons 1,428; S. P. earnings, $10,080.79; average per month, 238 tons; S. P. earnings $1,680.13. Via Union Pacific, tons 13,768; Union Pacific earnings $110,335.25; average per month, 2,295 tons, $18,389.10. This excludes traffic via S. P. Company to Ogden proper, on account of the destruction of the records, and also excludes railway material, that is, Company material.

Mr. SEVERANCE. Company business.

WITNESS. Yes.

Q. Was there any substantial traffic from Portland by Roseville to Ogden proper?

A. I think there was not.

The paper testified from by the witness, identified as "Sub-Division 'E.'" was marked Defendants' Exhibit 48, and is as follows:

6667 DEFENDANTS' EXHIBIT 48.

(Stubbs.)

Lovett's question No. 13.

Sub-Division "E"

LUMBER AND OTHER TRAFFIC.

From Portland to Ogden and common points and beyond via Sou. Pac. Co. and D. & R. G. R. R. and via Union Pacific System.

For the six months—July, Sept. Nov. 1900, Jan. Mch. and Apl. 1901.

From Portland to Points on and Via D. & R. G. R. R.:—

Via Southern Pacific	Tons	1,428	S. P. Earnings		$10,080.79
Average per Month	"	238	"	"	1,680.13
Via Union Pacific	Tons	13,768	U. P.	"	110,335.25
Average per Month	"	2,295	"	"	18,389.10

(Excluding traffic via S. P. Co. to Ogden, proper, account destruction of records, also excluding railway material.)

Authority: Auditor's statement attached.

6668 *Tonnage and revenue on freight traffic (principally lumber) from Portland, Oregon, to Utah common points, Colorado common points, and points east thereof, competitive between the Union Pacific System Lines and Southern Pacific Company Pacific System for July, September, and November, 1900, and January, March, and April, 1901.*

Months.		Via Union Pacific System lines from Portland via Huntington		Via Southern Pacific Co. lines from Portland via Ogden and Rio Grande Western Railway		Total traffic from Portland	
		Tons carried	Un. Pac. system freight revenue	Tons carried	So. Pac. Co. lines freight revenue	Cons carried	Un. Pac. Sys. lines and So. Pac. Co. lines freight revenue
July	1900	2,454	18,457.25	686	4,166.90	3,040	22,624.15
September	"	1,311	10,511.71	141	919.36	1,452	11,431.07
November	"	2,773	22,599.78	287	2,181.03	3,060	24,780.81
January	1901	1,772	12,807.36	120	1,029.19	1,892	13,926.55
March	"	2,960	22,351.26	140	1,219.71	3,076	23,564.97
April	"	2,622	20,517.89	54	573.60	2,676	24,091.49
Total		14,708	119,535.25	1,428	10,089.79	15,196	130,416.04

	Total tons carried.	Gross operating revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System lines (see Note 1) for same period	4,046,375	21,709,090.50
Total tons of freight carried by and gross operating revenue of Southern Pacific Company lines (see Note 2) for same period	7,134,694	38,022,449.09
Ratio of tonnage from Portland via Union Pacific System lines to total tons of freight carried by U. P. System lines	*Per cent.* 0.34	*Per cent.*
Ratio of tonnage from Portland via Southern Pacific Company lines to total tons of freight carried by S. P. Company lines	0.02	
Ratio of freight revenue on tonnage from Portland via Union Pacific System lines to gross operating revenue of U. P. System lines		0.51
Ratio of freight revenue on tonnage from Portland via Southern Pacific Company lines to gross operating revenue of S. P. Co. lines		0.03

NOTES.—1. Union Pacific System includes Union Pacific Railroad Company, Oregon Short Line Railroad Company, and the rail and water lines of the Oregon Railroad & Navigation Company. Owing to the destruction of certain records by fire, the total tons carried have been partially approximated. The gross operating revenue is one-half of the gross operating revenue for the year.

2. Southern Pacific Company Lines include the So. Pac. Co.-Pac. System, and the lines east of El Paso in which the Southern Pacific Company has an interest, including the Sunset Central Lines (so-called), and the Southern Pacific Company's Atlantic Steamship Lines. Owing to the destruction of certain records by fire, the total tons carried and gross operating revenue have been approximated. The gross operating revenue is one-half of the gross operating revenue for the year.

3. Owing to destruction by fire of the records of the Southern Pacific Co. the information in respect to business carried via Rio Grande Western Railway was obtained from the Denver & Rio Grande Railroad Company, successor to Rio Grande Western Railway Company.

4. Owing to destruction of records by fire, the tons carried and freight revenue on traffic from Portland to Ogden, Utah, via Southern Pacific Company, are not included.

5. Railway material is not included.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor,
Union Pacific System and Southern Pacific Company.

6669 Q. Will you proceed now with sub-division "F."

A. Traffic to and from Portland and Atlantic seaboard, Pittsburgh and Ohio River points, with Chicago, Mississippi River and

Missouri River common points territory added, via Sunset route and via Union Pacific Granger route, for the fiscal year ending June 30, 1900. Via Union Pacific, tons 32,605; earnings $591,890.50; a monthly average of 2,717 tons, $49,324.20. Via Southern Pacific, east and west, tons, 3,139, earnings $56,159.44; average per month, 261 tons, $4,679.95.

The statement just testified to by the witness was marked Defendants' Exhibit 49, and is as follows:

6670 DEFENDANTS' EXHIBIT 49.

(Stubbs.)

Lovett's question No. 13.

Sub-division "F"

TRAFFIC

To and From Portland and Atlantic Seaboard, Pittsburgh and Ohio River Points (with Chicago, Mississippi River and Missouri River Common Points Territories added) Via Sunset Route and Via Union Pacific Granger Route.

For fiscal year ending June 30, 1900.

Via Union Pacific	Tons	32,605	Earnings	$591,890.50
Average per Month	"	2,717	"	49,324.20
Via Southern Pacific (East and West)	Tons	3,139	Earnings	56,159.44
Average per Month	"	261	"	4,679.95

Authority: Auditor's statements (2) attached.

6671 *Statement of freight traffic between Portland, Oregon, and points in Missouri River and common points territory and points east thereof via Southern Pacific Company-Pacific System, El Paso, Texas, and New Orleans, Louisiana, for the fiscal year ending June 30, 1900.*

To—	Westbound.		Eastbound.		Total.	
	Tons carried.	S. P. Co. freight revenue.	Tons carried.	S. P. Co. freight revenue.	Tons carried.	S. P. Co. freight revenue.
Missouri River and common points territory						
Mississippi River and common points territory						
Chicago and common points territory	2.0	$62.02			2.0	$62.02
Cincinnati, Detroit, and common points territory	36.9	693.87	47.2	$756.76	84.1	1,417.63
Pittsburg, Buffalo, and common points territory	12.8	192.09			12.8	192.09
New York, Boston, and common points territory	1,404.4	41,742.82	1,035.8	22,744.97	1,040.2	54,487.79
Total	1,456.1	42,657.71	1,083.0	23,501.73	3,139.1	56,159.44

Statement of freight traffic, etc.—Continued.

	Total tons carried.	Gross operating revenue.
Total tons of freight carried by and gross operating revenue of Southern Pacific Company Lines for year ending June 30, 1909 (see Note)	12,244,703	$3,920,414.22
Ratio of freight traffic between Portland and territories specified via El Paso and New Orleans to total tons of freight carried by and gross operating revenue of Southern Pacific Company lines	0.03%	0.09%

NOTE.—Southern Pacific Company Lines include Southern Pacific Company-Pacific System, and the lines east of El Paso in which the Southern Pacific Company has an interest, including the Sunset-Central Lines (so called), and the Southern Pacific Company's Atlantic Steamship Lines.

Owing to the destruction of certain records by fire, the total tons carried have been partially approximated. The gross operating revenue is correct.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor,
Union Pacific System and Southern Pacific Company.

6872 *Statement of tons carried and freight revenue of the Union Pacific System on freight traffic between Portland, Oregon, proper, and various eastern territories via Granger, Wyoming, for the fiscal year ending June 30, 1909.*

	Westbound		Eastbound		Total	
	Tons carried.	U. P. Sys. freight revenue.	Tons carried.	U. P. Sys. freight revenue.	Tons carried.	U. P. Sys. freight revenue.
Missouri River and common points territory	1,575.80	70,342.82	1,242.84	12,372.61	1,818.64	88,965.43
Mississippi River and common points territory	2,063.80	76,123.99	240.14	2,013.21	2,303.94	90,137.81
Chicago and common points territory	7,106.00	140,154.94	1,476.80	15,230.80	8,971.80	148,382.74
Cincinnati, Detroit and common points	2,940.47	50,986.11	90.38	1,302.74	3,031.85	55,447.85
Pittsburgh, Buffalo and common points	1,847.54	53,077.89	19.48	378.29	1,867.09	53,457.18
New York, Boston and common points	7,862.36	160,048.84	929.29	25,856.65	8,792.65	185,499.49
Total	23,676.04	549,781.29	3,955.43	47,349.30	27,665.47	591,890.50

	Total tons carried.	Gross operating revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System for year ending June 30, 1909 (see note)	7,380,790	$9,147,697.23
Ratio of freight traffic between Portland and territories specified via Granger to total tons of freight carried by and gross operating revenue of Union Pacific System	0.38%	6.59%

NOTE.—Union Pacific System includes Union Pacific Railroad Company, Oregon Short Line Railroad Company and the rail and water lines of The Oregon Railroad & Navigation Company. Owing to the destruction of certain records by fire the total tons carried have been partially approximated. The gross operating revenue is correct.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor
Union Pacific Company and Southern Pacific Company.

6673 Q. Now I will ask you to proceed with sub-division "G".

A. "G" is traffic to and from Portland and Atlantic seaboard, Pittsburgh and Ohio River territories. The showing below includes all traffic between Portland and points on and east of Missouri River. This is for the year ending June 30, 1900. Via Union Pacific is included in sub-division "F", which I have read.

Q. We won't repeat that.

A. Via Rio Grande and Southern Pacific, west bound tons 1958; Southern Pacific earnings, $19,192.83. East bound is estimated 774 tons, $1,533.74. Total, 2732 tons, $20,726.57. The average per month was 228 tons; Southern Pacific earnings $1,727.21. Auditor's statement attached. Owing to destruction of S. P. records, this information was furnished by the D. & R. G. Railroad Company. See A. S. Hughes' letter to J. C. Stubbs, September 9, 1909, and accompanying papers, which are attached as vouchers to sub-division "E". The east bound tonnage and earnings were given for six months only. That showing has been doubled to get the above exhibit.

The statement testified from by the witness, identified as "Sub-Division 'G'", was marked Defendants' Exhibit 50, and is as follows:

6674 DEFENDANTS' EXHIBIT 50.

(Stubbs.)

Lovett's question No. 13.

Sub-Division "G".

TRAFFIC

To and from Portland and Atlantic Seaboard, Pittsburgh and Ohio River Territories.

The showing below includes all traffic between Portland and Points on and East of Missouri River.

Year ending June 30, 1900.

Via Union Pacific: (Is included in Answer to "F")				
Via Rio Grande and Southern Pacific: W. B. Tons	1,958	S. P. Earnings		$19,192.83
Estimated: E. B. "	774	" "		1,533.74
Total	2,732	" "		$20,726.57
Average per Month Tons	228	S. P. Earnings		1,727.21

Authority: Auditor's statements attached. Owing to destruction of S. P. Records this information was furnished by D. & R. G. R. R. Co. See A. S. Hughes' letter to J. C. Stubbs, September 9, 1909, and accompanying papers, which are attached as vouchers to Sub-Division "E". The East bound Tonnage and Earnings were given for six months only. That showing has been doubled to get the above exhibit.

6675 *Statement of freight traffic between Portland, Oregon, and Missouri River and common points territory and points east thereof, via Southern Pacific Company Lines via Ogden and Rio Grande Western Railway, for year ending June 30, 1900.*

Westbound.		Eastbound.		Total.	
Tons carried.	S. P. Co. freight revenue.	Tons carried.	S. P. Co. freight revenue.	Tons carried.	S. P. Co. freight revenue.
1,958	19,192.83	774	1,533.74	2,732	20,726.57

	Total tons carried.	Gross operating revenue.
Total tons of freight carried by and gross operating revenue of Southern Pacific Company Lines, for year ending June 30, 1900 (see Note 1)	12,243,763	63,920,414.22
Ratio of freight traffic between Portland and territory specified, via Ogden and Rio Grande Western Railway, to total tons of freight carried by and gross operating revenue of Southern Pacific Company Lines	0.02%	0.03%

NOTE.—1. Southern Pacific Company Lines include the Southern Pacific Company—Pacific System and the lines east of El Paso in which the Southern Pacific Company has an interest, including the Sunset-Central Lines (so-called) and the Southern Pacific Company's Atlantic Steamship Lines. Owing to destruction of records by fire the total tons carried have been partially approximated. The gross operating revenue is correct.

2. Owing to destruction by fire of the records of the Southern Pacific Company, the information in respect to business carried via Rio Grande Western Railway was obtained from the Denver & Rio Grande Railroad Company, successor to Rio Grande Western Railway Company. Figures for eastbound traffic were given for six months only and these were doubled for the year.

Compiled by:

C. S. STEBBINS,
Assistant to General Auditor
Union Pacific System and Southern Pacific Company.

6676 Q. Have you sub-division "H" before you?

A. Sub-division "H", hops and wool to the east, namely, Atlantic seaboard, from Portland to Missouri River and east, for the year ending June 30, 1900. Via Union Pacific, tons 1,290; Union Pacific revenue $6,978.12. Average per month, 107 tons, $581.51. Via Southern Pacific and El Paso, 128 tons; S. P. revenue, $4,456.50. Via Southern Pacific and D. & R. G., 303 tons; Southern Pacific revenue $3,062.79. Total Southern Pacific, 431 tons, revenue $7,519.29. Average per month for the Southern Pacific 36 tons; revenue, $626.61. Total average per month, 143 tons, revenue $1,208.12.

The statement just testified from by the witness, identified as Sub-Division "H", was marked Defendants' Exhibit 51, and is as follows:

6677 DEFENDANTS' EXHIBIT 51.

(Stubbs.)

Lovett's question No. 13.

Sub-Division "H."

HOPS AND WOOL TO THE EAST.

(Mainly Atlantic Seaboard.)

From Portland to Missouri River and East

For Year Ending June 30, 1900.

Via Union Pacific	Tons	1,290	U. P. revenue	$6,978.12
Average per month	"	107	" "	581.51
Via Sou. Pac. and El Paso	Tons	128	S. P. revenue	$4,456.50
Via S. P. and D. & R. G.	"	303	"	3,062.79
		431		$7,519.29
Average per month	Tons	36	Revenue	626.61
Total average per month	Tons	143	Revenue	$1,208.12

Authority: Auditor's statement attached.

6678 *Tonnage and freight revenue on hops and wool traffic from Portland, Oregon, to Missouri River and east thereof, via the Union Pacific System Lines and Southern Pacific Company Lines, for fiscal year ending June 30, 1900.*

Commodity.	Via Un. Pac. Sys. lines.		Via So. Pac. lines via El Paso and New Orleans.		Via So. Pac. Co. lines via Ogden and Rio Grande Western Ry.		Total from Portland.	
	Tons carried.	Un. Pac. Sys. Lns. freight revenue.	Tons carried.	So. Pac. lines freight revenue.	Tons carried.	So. Pac. lines freight revenue.	Tons carried.	Un. Pac. Sys. and So. Pac. lines freight revenue.
Hops	8	131.43	3	94.75	274	2,881.42	285	3,127.50
Wool	1,282	6,826.69	125	4,361.75	29	181.47	1,436	11,369.91
Total	1,290	6,826.69	128	4,456.50	303	3,062.79	1,721	14,497.41

	Total tons carried.	Gross operating revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System lines (*see Note 1*) for year ending June 30, 1900	7,380,796	39,147,697.33
Total tons of freight carried by and gross operating revenue of Southern Pacific Company lines (*see Note 2*) for year ending June 30, 1900	12,243,783	63,920,414.22
Ratio of tonnage from Portland via Union Pacific System lines to total tons of freight carried by Union Pacific System lines	0.018%	
Ratio of tonnage from Portland via Southern Pacific Company lines to total tons of freight carried by Southern Pacific Co. lines	0.010%	
Ratio of freight revenue on tonnage from Portland via Union Pacific System lines to gross operating revenue Union Pacific System lines		0.018%
Ratio of freight revenue on tonnage from Portland via Southern Pacific Company lines to gross operating revenue Southern Pacific lines		0.012%

NOTES.—1. Union Pacific System includes Union Pacific Railroad Company, Oregon Short Line Railroad Company, and the rail and water lines of The Oregon Railroad & Navigation Company. Owing to the destruction of certain records by fire, the total tons carried have been partially approximated. The gross operating revenue is correct.

2. Southern Pacific Company Lines include the Southern Pacific Company—Pacific System, and the lines East of El Paso in which the Southern Pacific Company has an interest, including the Sunset-Central Lines (so-called) and the Southern Pacific Company's Atlantic Steamship Lines. Owing to the destruction of records by fire, the total tons carried have been partially approximated. The gross operating revenue is correct.

3. Owing to destruction by fire of the records of the Southern Pacific Company, the information in regard to business carried via Rio Grande Western was obtained from the Denver & Rio Grande Railroad Company, successor to the Rio Grande Western Railway Company.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor,
Union Pacific System and Southern Pacific Co.

6679 Q. Have you sub-division "I" before you?

A. I have.

Mr. SEVERANCE. Do we understand you expect to put Mr. Stebbins on, or not?

Mr. DUNNE. Yes.

Mr. SEVERANCE. Mr. Stubbs personally knew nothing about it, of course.

Mr. DUNNE. These have been prepared by the Auditor, except as otherwise specified, some of the figures being obtained from the D. & R. G.

WITNESS. Sub-Division "I", traffic between San Francisco and Montana and Idaho points, including eastern Oregon, Washington and British Columbia, served by Northern Pacific and competed for, so-called, for the service between San Francisco and Portland——

Mr. SEVERANCE. The words "so-called" are not in there, are they?

WITNESS. No.

Mr. SEVERANCE. Well, please put yourself in quotations when you insert anything, will you?

WITNESS. I will ask you to put the quotation marks on that.

Mr. DUNNE. That is all right, the reporter is taking it down.

WITNESS. By Southern Pacific and the O. R. & N. Co., for the year 1900. Via Southern Pacific and Northern Pacific, tons 2,402; S. P. earnings $12,837.09; average per month, 200 tons, $1,069.76. Via O. R. & N. Co., tons 17,049; O. R. & N. steamship earnings, $39,238.92.

Average per month, 1421 tons, $3,269.91. Total, 19,451 tons,
6680 $52,076.01. Average per month, tons 1621, $4,339.67. Auditor's statements. Owing to destruction of Southern Pacific Company's records, the information in respect to this Company's revenue was obtained from the Northern Pacific Railway Company.

The statement testified from by the witness, identified as "Sub-Division 'I'", was marked Defendants' Exhibit 52, and is as follows:

6681 DEFENDANTS' EXHIBIT 52.

(Stubbs.)

Lovett's question No. 13.

Sub-Division "I."

TRAFFIC

Between San Francisco and Montana and Idaho Points (including Eastern Oregon, Washington and British Columbia), served by Northern Pacific and competed for—for the service between San Francisco and Portland—by the Southern Pacific and the O. R. & N. Co.

For the year 1906.

Via Sou. Pac. and Nor. Pac.	Tons	2,402	S. P. Earnings	$12,837.09
Average per month	"	200	" "	1,069.76
Via O. R. & N. Co.	Tons	17,049	O. R. & N. S. S. Earnings	39,238.92
Average per month	"	1,421	"	3,269.91
Total		19,451	"	$52,076.01
Average per month	Tons	1,621	"	84,339.67

Authority: Auditor's statements. Owing to destruction of Sou. Pac. Co's records the information in respect to this Company's revenue was obtained from the Northern Pacific Ry. Co.

6682 *Tonnage and freight revenue of traffic from and to San Francisco Bay points via Portland, Oregon (not via Huntington or Ogden), to and from points on Northern Pacific Railway east of Pasco, Washington.*

Via Southern Pacific Company—Pacific System and Northern Pacific Railway for calendar year 1906.

Westbound.		Eastbound.				Total.	
From competitive points west of eastern terminals.		To competitive points in Montana.		To competitive points in Washington, Idaho, Oregon and British Columbia.			
Tons carried.	S. P. Co. freight revenue.	Tons carried.	S. P. Co. freight revenue.	Tons carried.	S. P. Co. freight revenue.	Tons carried.	S. P. Co. freight revenue.
423	1,587.51	1,634	8,491.40	445	2,758.09	2,402	12,837.09
						Total tons carried.	Gross operating revenue.
Total tons of freight carried by and gross operating revenue of Southern Pacific Company lines for year ending June 30, 1906 (see Note 1)						12,243,763	$3,920,414.22
Ratio of freight traffic between San Francisco Bay points and points specified to total tons of freight carried by and gross operating revenue of Southern Pacific Company lines						0.02%	0.02%

Tonnage and freight revenue of traffic, etc.—Continued.

Via The Oregon Railroad & Navigation Company for fiscal year ending June 30, 1900.

Between San Francisco and Spokane.		Between San Francisco and Pendleton, Athena, Walla Walla, Wallula, Wattsburg, Huntsville, Longs, Dayton, Lewiston, Pullman, Moscow, Connell, Garfield, Farmington.		Between San Francisco and points between Harrison and Burke and Mullan.		Total.	
Tons carried.	O. R. & N. steamship revenue.	Tons carried.	O. R. & N. steamship revenue.	Tons carried.	O. R. & N. steamship revenue.	Tons carried.	O. R. & N. steamship revenue.
8,184	18,890.78	7,514	17,118.54	1,351	3,319.60	17,049	39,238.92

	Total tons carried.	Gross operating revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System for year ending June 30, 1900 (see Note 2).....	7,389,796	39,147,697.33
Ratio of freight traffic between San Francisco Bay points and points specified to total tons of freight carried by and gross operating revenue of Union Pacific System.....	0.23%	0.10%

NOTES.—1. Southern Pacific Company Lines include the Southern Pacific Company—Pacific System and the lines east of El Paso in which the Southern Pacific Company has an interest, including the Sunset-Central Lines (so-called) and the Southern Pacific Company's Atlantic Steamship Lines. Owing to the destruction of records by fire, the total tons carried have been partially approximated. The gross operating revenue is correct.

2. Union Pacific System includes Union Pacific Railroad Company, Oregon Short Line Railroad Company, and the rail and water lines of the Oregon Railroad & Navigation Company. Owing to the destruction of certain records by fire the total tons carried have been partially approximated. The gross operating revenue is correct.

3. Owing to destruction by fire of the records of the Southern Pacific Company the information in respect to business carried via Southern Pacific Company was obtained from the Northern Pacific Railway Company, which carried this traffic from Portland.

Compiled by

(Sgd.) C. S. STEBBINS.

Assistant to General Auditor, Union Pacific System and Southern Pacific Company.

6683 Q. Have you sub-division "K" before you?

A. There are two parts of sub-division "K". Traffic between Atlantic seaboard territory and Colorado common points, via Southern Pacific and Gulf ports, via Union Pacific, all-rail, and via Union Pacific and South Atlantic ports, for the year ending June 30, 1900. Via Southern Pacific Gulf routes, tons 21,611, revenue $202,173.15. Average per month, 1,801 tons. Revenue, $16,847.76. Via Union Pacific, all routes, for October 1906 and April 1907, tons 2,451, revenue $32,798.18. Average per month 1,226 tons, $16,399.09. Owing to destruction of records, figures for Union Pacific traffic for 1900 are not available, and figures for October 1906 and April 1907 are used, taken from statements introduced by the Government as Exhibits 120C and 120D. Authority: For Union Pacific, general auditor Young's statements, May 25, 1909, Exhibits 120C and 120D. For Southern Pacific, statement of B. G. Bartholomew, Auditor, etc.

Q. You did not give us the figures, for Utah?

A. Traffic between Atlantic seaboard territory and Utah common points, via Southern Pacific and Gulf ports, via Union Pacific all-rail, and via Union Pacific and South Atlantic ports, for the year ending June 30, 1900. Via Southern Pacific Gulf routes, tons 1,812; Southern Pacific revenue $24,853.48. Average per month, 151 tons, $2,071.12. Via Union Pacific, all routes, for October 1906 and April 1907, tons 9,475; U. P. revenue $95,240.98. Average per month, 4,738 tons, $47,620.49. Owing to destruction of records, figures for Union Pacific traffic for 1900 are not available, and figures for October 1906 and April 1907 were used, taken from statements intro-
6684 duced by the Government as Exhibits 120C and 120D. Authority, for Union Pacific, General Auditor Young's statements, May 25, 1909; for Southern Pacific, statement of B. G. Bartholomew, etc.

Mr. SEVERANCE. May I ask one question, so I will understand that, Mr. Dunne?

Mr. DUNNE. Yes.

Mr. SEVERANCE. You say, as to the Southern Pacific, "Statement of B. G. Bartholomew, Auditor Atlantic Steamship Lines, January 12th, 1910." Did he have the records of the rail lines between the terminus of the steamship and Fort Worth?

Mr. DUNNE. Well, we have him here.

Mr. SEVERANCE. He will be on as a witness?

Mr. DUNNE. Yes.

WITNESS. Of the rail lines?

Mr. SEVERANCE. Yes.

WITNESS. I think the manifest is a through manifest, and his record would show.

Mr. SEVERANCE. He will know about that?

WITNESS. Yes.

Mr. SEVERANCE. We are not objecting to Mr. Stubbs' reading this into the record, on the assumption that you will produce the men that made the figures; but we do object, otherwise, as incompetent.

Mr. DUNNE. We will develop the figures by the Auditor.

Mr. SEVERANCE. Simply as a matter of convenience, I don't care anything about it.

The statement last testified from by the witness, being identified as sub-division "K", two sheets, was marked Defendants' Exhibit 53, and is as follows:

6685 DEFENDANTS' EXHIBIT 53.

(Stubbs)

Sub-Division "K"

Lovett's Question No. 13. (Colorado.)

Traffic Between Atlantic Seaboard Territory and Colorado Common Points, via Southern Pacific and Gulf ports, via Union Pacific, all-rail, and via Union Pacific and South Atlantic ports, for year ending June 30, 1900.

Via Southern Pacific Gulf routes	tons	21,611	Revenue	$202,173.15
Average per month	"	1,801	"	16,847.76
Via Union Pacific—all routes—for October 1906 and April, 1907	tons	2,451	Revenue	32,798.18
Average per month	"	1,226	"	16,399.09

(Owing to destruction of records, figures for Union Pacific traffic for 1900 are not available, and figures for October, 1906 and April, 1907, are used, taken from statements introduced by the Government as Exhibits 120 C and 120 D.)

Authority: For Union Pacific, General Auditor Young's statements, May 25, 1909, Exhibits 120 C and 120 D.
For Southern Pacific, statement of B. G. Bartholomew, Auditor, Atlantic Steamship Lines, January 12, 1910.

6686 *Lovett's Question No. 13. (Utah.)*

Sub-Division "K."

Traffic Between Atlantic Seaboard Territory and Utah Common Points via Southern Pacific and Gulf Ports, via Union Pacific, All-Rail, and via Union Pacific and South Atlantic Ports. For Year Ending June 30, 1900.

Via Southern Pacific Gulf Routes	Tons	1,812	S. P. Revenue	$24,853.48
Average per month	"	151	"	2,071.12
Via Union Pacific—All Routes—Oct 1906 and Apl 1907	Tons	9,475	U. P. Revenue	95,240.98
Average per month	"	4,738	"	47,620.49

(Owing to destruction of records, figures for Union Pacific traffic for 1900 are not available, and figures for October, 1906 and April 1907 are used, taken from statements introduced by the Government as Exhibits 120 C and 120 D.)

Authority: For Union Pacific, General Auditor Young's statements, May 25, 1909, Exhibits 120 C and 120 D.
For Southern Pacific, statement of B. G. Bartholomew, Auditor, Atlantic Steamship Lines, January 12, 1910.

6687 Q. I asked you a question with reference to the San Francisco-Portland business, the alleged competitive business. What have you to say in reference to the alleged competitive business as to Utah and Colorado, to which these figures were addressed?

A. I think I referred to that in my testimony of yesterday. The Southern Pacific did not have any control of this traffic from seaboard to Utah or to Colorado beyond Fort Worth, which is, according to my examination, 270 and 271 miles farther east from these points than Omaha and Kansas City. The competition, if there is such, in the sense of restraining trade is not between the Southern Pacific and the Union Pacific, and I wish to add to my testimony of yesterday this fact: That when the Sunset Gulf route was opened for Colorado business, which was in 1888 or 1889, the Union Pacific owned the line from Denver to Fort Worth: it was then the U. P., Denver and Gulf line; and the line was opened in connection with the Union Pacific road. The Union Pacific road operated that line in connection with the Gulf line, upon equal terms, that is, indifferently as to whether business from the Atlantic seaboard went over that line via Fort Worth or via Omaha or via Kansas City.

Q. And is the Union Pacific in that route now?

A. I think it is in the testimony yesterday—if not I should like to have it put there—that the rates and divisions in connection with the Southern Pacific's lines from New York to Fort Worth, and, beyond that, the Colorado Southern, have always been applicable to the Union Pacific as a connection, as well as to the Rio Grande

6688 as a connection. The business has moved, off and on, by that route.

Mr. DUNNE. In connection with these exhibits, Mr. Severance, we will put in evidence a recapitulation which contains, as additional factors, the comparison of the Southern Pacific and Union Pacific revenues and the combined Southern Pacific and Union Pacific revenues.

Mr. SEVERANCE. You will do that with Mr. Stebbins?

Mr. DUNNE. Yes. I will have it marked now. It is really an arithmetical computation.

The recapitulation referred to was marked Defendants' Exhibit 54, and is as follows:

6689 DEFENDANTS' EXHIBIT 54.

(Stubbs)

"X"

SOUTHERN PACIFIC COMPANY

Total operating revenue:	
Fiscal year ending June 30, 1900	$63,920,414.22
Average per month	5,326,701.19
Fiscal year ending June 30, 1901	77,244,898.18
Average per month	6,437,074.85

	Southern Pacific; monthly average.		Southern Pacific. (3) Total revenue; average per month.	Relation of earnings (2) to total revenue (3); percentage (4).
	Tons (1).	Dollars (2).		
A	91	$2,066	$6,437,074.85 (1901)	0.032
B	2,156	9,224	" "	0.143
D	2,120	12,196	" "	0.189
E	238	1,680	" "	0.026
F	261	4,689	$5,326,701.19 (1900)	0.088
G	228	1,727	" "	0.032
H		Included in "F"		
I	200	1,070	" "	0.020
J		Unimportant		
K Utah	151	2,071	" "	0.039
K Colo	1,801	16,848	" "	0.316
				0.885

6690 "Y"

UNION PACIFIC COMPANY.

Total operating revenue:
- Fiscal year ending June 30, 1900 ..... $39,147,697.33
- Average per month 3,262,308.11
- Fiscal year ending June 30, 1901 ..... $43,538,181.01
- Average per month 3,628,181.75
- October, 1906, and April, 1907 ..... $13,388,623.57
- Average per month 6,694,311.79

	Union Pacific monthly average.		Union Pacific. (3) Total revenue; Sources; Average per month.	Relation of earnings (2) to total revenue (3); percentage (4).
	Tons (1).	Dollars (2).		
A	22	$87	$5,628,181.75 (1901)	0.002
B	6,392	18,088	" "	0.499
D	549	3,068	" "	0.084
E	2,295	18,389	" "	0.507
F	2,717	48,321	$3,262,308.11 (1900)	1.511
G		Included in "F."		
H		" " "		
I	1,421	3,270	$3,262,308.11 "	0.100
J		Unimportant.		
K Utah	4,738	47,620	$6,694,311.79 (1907)	0.712
K Colo	1,226	16,399	" "	0.245

6691 "Z."

UNION PACIFIC AND SOUTHERN PACIFIC.

Total operating revenue:
- Fiscal year ending June 30, 1900 ..... $103,068,111.55
- Average per month 8,589,009.29
- Fiscal year ending June 30, 1901 ..... 120,783,079.19
- Average per month 10,065,256.60

3971

Combined.

	Sou. Pac. and Un. Pac. Monthly average.		Sou. Pac. and Un. Pac. (3). Total revenue average per month.	Relation of earnings (2) to total revenue (3). Percentage (4).
	Tons (1).	Dollars (2).		
A	113	$2,153	$10,065,256.60 (1901)	0.021
B	8,548	27,312	" "	0.271
D	2,669	15,264	" "	0.152
E	2,533	20,069	" "	0.199
F	2,978	54,004	8,589,009.30 (1900)	0.628
G	228	1,727	" "	0.020
H			Included in "F."	
I	1,621	4,340	8,589,009.30 (1900)	0.051
J			Unimportant.	
Utah	4,889	49,691	" "	0.577
K				
Colo	3,027	33,247	" "	0.387
				2.570

6692 By Mr. SEVERANCE:

Q. Taking up, first, this Colorado and Utah business from New York, concerning which you have just testified,—who was your agent in New York, previous to the merger, having charge of that business?

A. The same as now, Mr. Spence.

Q. Was not Mr. Hawley in charge of it?

A. Beg your pardon. He was, yes.

Q. Mr. Edwin Hawley was the man in charge of the eastern business of the Sunset and the Southern Pacific lines, wasn't he, at that time?

A. Assistant general traffic manager, located in New York.

Q. And he had charge of the business here, hadn't he—the solicitation of business and the routing of business?

A. He was the general representative of the traffic department at that end of the line.

Q. Now you spoke of the time that the line to Colorado and Utah was established in connection with the Southern Pacific, and you said the Union Pacific then owned the Union Pacific, Denver & Gulf road, afterwards the Colorado Southern?

A. That is right.

Q. They lost that, however, about 1895 or 1896, didn't they?

A. I think so, yes, sir.

Q. They didn't own it at the time of the merger, in 1901, and hadn't for several years?

A. Not to my knowledge.

Q. It was entirely separate and distinct from the Union Pacific system?

A. I understand so.

Q. And the Union Pacific had no interest at that time in forcing business over that route?

A. No, sir.

6693 Q. Now, you have stated, as I understand you——

A. I don't think it ever had any interest in forcing business over that route.

Q. They had every interest in forcing business away from that route, after they lost control of it, hadn't they, and bringing it from the Missouri River?

A. They would get the longer haul, certainly.

Q. Yes. Did I understand you to say that you had some theory upon which this business from New York to Utah and Colorado points was not competitive as between the Southern Pacific Gulf line and the Union Pacific?

A. If you will read my testimony of yesterday, you will see what the theory is.

Q. No, you didn't go into that yesterday.

A. Yes, I did.

Q. You spoke some about distances.

A. Well, I beg your pardon. I will state it now.

Q. I wish you would. I want to clearly understand it.

A. I gave the various routes, all-rail, via the South Atlantic ports and via the Gulf, descriptive in respect to the distances, and showed what I believed the facts will warrant—that when the freight moved from the Atlantic seaboard towards either Denver or Salt Lake City, when it was carried or delivered by the Southern Pacific and its allied interests at Fort Worth, it was 270 and 271 miles (and against some lines farther) distant from the destination than it was delivered to the Union Pacific at either Omaha or Kansas City.

Q. Yes, I understood you to say that.

A. Very well, that is what I said.

Q. That is all you claim?

6694 A. Now, I claim that that is evidence that the competition, if there were competition, was between the line via the Southern Pacific steamships and the H. & T. C. up to Fort Worth, with the lines east of the Missouri River, and not with the lines west.

Q. Oh, I see. So you divide these lines in two, and you say that there was no competition between the Southern Pacific, in spite of its interest in this haul from New York to Fort Worth, but that the competition, if any, was between, we will say, the Colorado Southern and the Union Pacific, and, on the other hand, the competition was between the Southern Pacific's steamship and rail lines and the lines east of the Missouri River?

A. That is exactly what I want——

Q. That is your position?

A. That is exactly what I want the record to show.

Q. That is what I understood you; but I wanted to be sure that I did understand you.

A. Yes.

Q. Now, Mr. Hawley testified in this case that he was your representative in New York; and, after stating the way the traffic moved,

at folio 1417 of the record, he testified as follows: "Q. As to that business into Colorado, were you competing with the Union Pacific? A. Certainly. Q. How is that? A. Surely. Q. Now, as to Utah business, Utah common points; were you in competition with the Union Pacific as to them? A. Yes. Q. Did any of your traffic into Utah common points, that was brought around through Texas, move to Utah by the Denver & Rio Grande and the Rio Grande Western? A. Yes. Q. Most of it did, didn't it? A. Yes, sir." Now, you think Mr. Hawley was mistaken, do you, in that testimony?

6695 A. I think it is merely a question of terms, yes. I do not think he properly conceived what the term "competition" in the sense that we are using it here, meant.

Q. That is, in the sense that you are using it here.

A. I mean in the sense that the law uses it, sir.

Q. Well, then, it is a legal opinion you are giving, is it?

A. You may take it as my legal opinion or traffic opinion, just as you please. You may take it as my opinion.

Q. Good.

A. That is right.

Q. Now, Mr. Hawley was a man of sufficient intelligence as a railroad man so that you kept him here in charge of your business for nearly twenty years; isn't that true?

A. I do not think Mr. Hawley would have made that statement if he had thought five minutes as to the meaning and effect of the term.

Q. You mean its effect on this lawsuit?

A. No, as to the real definition of the term. Now, as to Mr. Hawley, he is a very able man, a very competent man, and he knows his business as well as any man in the country.

Q. I thought so. And he testified. Is it not a fact, Mr. Stubbs, that your agency here, under the leadership of Mr. Hawley, was actively soliciting business to Colorado by the Gulf route?

A. It is a fact.

Q. Isn't it a fact that the Union Pacific at that time was engaged in actively soliciting that business in—you don't like the word "competition," but, we will say, as against the Gulf route, trying to get it by the Missouri River?

A. The Union Pacific always solicited business everywhere for its long haul, as every other line.

Q. Then, if the solicitation of business by the Southern

6696 Pacific by one route and the solicitation by the Union Pacific for the business by another route, makes competition, they were in competition, weren't they—if that itself would make competition?

A. If that would make competition, yes.

Q. Now, you stated that in your opinion there was no competition between Portland and San Francisco.

A. Yes.

Q. And you stated, further, as a fact, that the paper mills there moved all their traffic by boat; that they could not reach the Southern Pacific lines; didn't you?

A. No, I didn't, not to that.

Q. What do you say about it?

A. Let the stenographer read what I said.

Q. You spoke of the paper mills at Willamette Falls. What was your statement about that business?

A. Let the record show what I said.

Mr. SEVERANCE. Well, let him read it. Turn back and see what Mr. Stubbs said. If he can't remember now what he said, why, we will let the record disclose it.

WITNESS. That is what I want. Let the record show.

Mr. SEVERANCE. I thought perhaps you would remember.

WITNESS. I do remember in a general way what I said, but I want the exact language.

The following testimony of the witness was read by the reporter:

"That business which is deducted represents the tonnage to and from the paper mills at Willamette Falls, 15 miles above Portland, on the Willamette River. Those mills are on the west side
6697 of the River, and away from the reach of the railroad. They are served directly by boats. And we have never been able to take any of that business, in fact have not attempted to do it for many years; local to the steamship line.

"Q. The O. R. & N.?

"A. Yes."

Q. Now that was your testimony, and that was your statement, wasn't it?

A. That is right, yes.

Q. Were you in court in Portland when Captain Graham testified in this case?

A. I was not.

Q. You were not there, that is true?

A. No.

Q You know who Captain Graham is, don't you—that he runs a line of boats on the Willamette River?

A. No, I don't know him.

Q. Now, it appears at folio 4444, pages 2701–2, Vol. 6, that Captain Graham testified as follows: "Q. You spoke about the traffic from the paper mills. That is paper in large rolls, is it not? A. Large and small. Q. Do you seek that traffic? (That is, his boat line.) A. No, sir, we don't care for it. Q. Why not? A. Not enough revenue in it. Q. That paper is destined to what points as a rule, that is, this heavy roll paper? A. Mostly San Francisco. Q. Goes to San Francisco by boat routes, does it not—one by your boat line to Portland? A. Boat line to Portland. Q. And the other by the line over to Pulp? A. To Pulp. Q. Just directly across on the west side of the river; and is there loaded on the Southern Pacific and taken down that way? A. Yes, sir.

"Mr. SEVERANCE. You said 'it'.

"Mr. COTTON. I said, 'the line.'" (He was then being examined by Mr. Cotton.) You know who Mr. Cotton is, don't you—

6698 counsel of the O. R. & N. and Southern Pacific at Portland?

A. Yes, I have heard of him.

Q. "Q. By the O. R. & N. So the O. R. & N. moves some of it to San Francisco, which goes out by boat to San Francisco? A. Yes.

"Q. And the Oregon City Paper Mills sends some of it across the river in their own boat, over to Pulp, and that goes down on the Southern Pacific? A. Yes, sir." Now, that was brought out by Mr. Cotton. In the face of that testimony from a man who lives in Portland and is interested in that traffic, do you still persist in your statement that you never sought that traffic and that you don't carry any of it by the rail line?

A. Yes, I fully stand on what I said.

Q. Do you know anything about it personally?

A. Only as I know——

Q. Instinctively?

A. ——the movement of all traffic—by reports.

Q. And you are willing to have your statement stand as a statement of a fact, in opposition,——

A. Yes, sir.

Q. ——to the statement of Mr. Graham——

A. To the best of my knowledge and belief.

Q. ——brought out by your counsel, Mr. Cotton?

A. I want to stand by that.

Q. All right, you can stand by it. You stated, as another reason why there was no competition between the Southern Pacific rail line and the boat line to Portland, I believe, that they operated at

6699 a differential, and that the boat, by reason of that fact——

A. I don't think I used that term.

Q. You may not have used the word "differential," but you spoke of difference in rates, didn't you—that the boat line rate was lower than the other?

A. I think what I said would convey the idea which I meant to convey—that the advantages of the boat line over the rail line were such that the rail line could not overcome them. And, moreover, that the competition between the several carriers on the sea route for that business made it not only undesirable, but intensified that undesirableness of the business.

Q. Did you ever try to get it?

A. Yes, sir.

Q. Did you ever compete for it?

A. Yes, we did.

Q. When?

A. We tried very hard. In the early nineties, after the opening of the Shasta route, we tried it out; did a great many foolish things; and we had to learn by experience. Yes, sir, we tried very hard to get it; and we demonstrated to our satisfaction that it was impossible for us to do it.

Q. Didn't you continue to carry business between San Francisco and Portland, up to the time of the merger?

A. No more before than since.

Q. Didn't you before and since?

A. I think that some little jags of business would move that way, yes, sir; there is no doubt about it.

Q. Did you dislike to have it moved that way? Did you try to keep it away?

A. When any man would come down and put it on our platform, of course we would take it. What I mean is, that there was no competition for that freight. We had no active solicitation. In
6700 other words, we practically, in our parlance, went out of that business; and we went out of it not willingly, any more than we would go out of any other business that was profitable.

Q. You ran daily freight trains, didn't you, between those cities?

A. Yes.

Q. And do you mean to say you didn't solicit the business at all?

A. I mean to say that we do not solicit that business.

Q. You don't now, perhaps.

A. And did not then. No different now than then, that is it.

Q. You say that in 1900 and 1901 you didn't solicit that business?

A. That is my understanding of it—my recollection of it.

Q. Where did you get that understanding? Didn't get it from your traffic solicitors, did you?

A. Well, I haven't asked them about it.

Q. They are the men that do the soliciting, aren't they?

A. They do, under direction, yes.

Q. If as a matter of fact the men who were in immediate touch with the traffic, in the solicitation of traffic there, testified that that business was solicited, you would not dispute it, would you?

A. No.

Q. If the merchants in Portland testified that that business was solicited by the Southern Pacific's solicitors, you would not dispute that statement, would you?

A. I might question them about it.

Q. Well, they have been questioned, and cross examined?

A. I think they might be a little careless about statements
6701 of that sort.

Q. Do you think that they, when they have no interest in this controversy, would be apt to be more careless than you?

A. I think that we are all very loose in our statements, at times.

Q. Well, I am sure you don't mean to be, Mr. Stubbs?

A. No, I am trying to be very exact on this thing.

Q. But you would not attempt to say that that business was not solicited, if a large number of gentlemen of repute, in Portland, and in San Francisco too, had testified it was, would you?

A. No, I would not.

Q. Business moved that way?

A. Yes.

Q. Now, about passenger business: you made active efforts to get that over that scenic route of yours, the Shasta route, didn't you?

A. We did for a time, yes, sir. We do now, today.

Q. You have always done it, haven't you?

A. Yes, but not in the sense of competing for it with the steamship.

Q. What do you mean by not competing for it with the steamship? You run your trains, don't you?

A. Yes.

Q. And you try to load your trains, isn't that true?

A. Now, see here: I simply want to put this thing before you as I see it, properly: and there isn't any use of trying to twist what I say. You will get all the facts out of me. There isn't any doubt about this fact—that business can move, passenger business, by steamship, between San Francisco and Portland, and by rail between San Francisco and Portland. There isn't any doubt about that. But each line has its characteristics, and, as a practical matter, there is
6702 no substantial competition between those lines. We pay no more attention today, and have not for years, to what the steamship lines do in passenger matters, than if there was no steamship line there. The steamship lines, according to my information—my observation, pay no more attention to what we do. That was not true in the beginning: we didn't know as much as we know today. We did a great many foolish things. That whole passenger war, there was no possible excuse for it, unless it might be argued that it was good as an advertisement for the Shasta line; no possible excuse for it. If we had known as much then as we know now, it would not have occurred. That is the idea I am trying to convey to you. You might take the boats off or you might take our rail line off, and, so far as the increase or decrease of the traffic to either one or the other is concerned, I do not think it would be noticeable.

Q. Let's see about that. How many ways are there to get from Portland to San Francisco?

A. How do you mean?

Q. I mean direct routes. There are only two, are there? There are the ships, and your rail line.

A. That is right; in that sense, yes.

Q. And the only ships there are, are the ships formerly owned by the O. R. & N., and now by its successor corporation, the San Francisco & Portland Steamship Company?

A. Why, there are loose ships all along.

Q. Not carrying passengers are they?

A. Yes, there are loose ships.

Q. I am speaking about carrying passengers.

A. My dear sir, the steam schooners carry passengers.

Q. Not to any extent, do they?

6703 A. I won't testify as to between Portland and San Francisco; but they did to a very considerable extent between San Francisco and Los Angeles for a time.

Q. I think the testimony shows that Mr. Hurlburt testified that they didn't carry passengers. You know Mr. Hurlburt, don't you, who used to be a Union Pacific man up there?

A. Yes, I know him very well.

Q. He testified that the schooners did not engage in that business, and that the O. R. & N. boats did, and that they had a capacity of 300 to 350 passengers, and that from April to November they traveled pretty full?

A. Yes.

Q. Once in five days?

A. Yes.

Q. Now, you run two through trains a day, don't you?

A. Three.

Q. Getting better. Three through trains a day from San Francisco to Portland?

A. All an engine can pull, and loaded to the guards.

Q. Loaded to the guards, with people?

A. With people.

Q. Paying fare?

A. Paying fare; no passes.

Q. And the passengers can go by that road, or they can go by the boats?

A. Yes.

Q. And you say that you don't try to work the business one way or the other; but you mean you let it take its natural course, don't make any efforts to get it one way or the other?

A. No. I don't say that.

Q. What do you mean then?

A. I mean just what I said.

Q. Say it again then.

6704 A. That there has been practically no competition between those lines.

Q. Although there is this vast stream of people moving from one place to the other?

A. That is right.

Q. And only two routes to go; there is no competition?

A. That is right.

Q. Do you know of any other place in the United States, connected up with just two lines of transportation, where there is no competition at all and no effort to get the business?

A. Yes, I know there is. You might just as well say that our steamship line between New York and New Orleans competed with the all-rail route. It is entirely tourist travel, and there is practically no competition in the sense that we use the word.

Q. What is the sense in which you use the word? That is what I am trying to find out.

A. Taking business that the other fellow has.

Q. You mean, go on board a boat and pull a passenger off and put him on the railroad, is that what you mean?

A. Well, if that satisfies yourself, why, now, answer your question that way.

Q. Now, on this passenger business, you advertise the beauties of the Shasta route, don't you—"the route of a thousand wonders"? You advertise, do you not, and have for many years, the Shasta route, as a very delightful way to travel from San Francisco to Portland; that is true, isn't it?

A. Yes.

Q. By folders?

A. Yes.

Q. By magazine advertisements?

A. Yes.

Q. By advertisements in newspapers?

6705 A. Every way we know how; very expensive; spent a hundred thousand dollars in one year, in advertising that route.

Q. That is what I thought. I knew you spent a large sum. Now, the boat line is also advertised, isn't it?

A. I don't know as to that.

Q. You have never seen any advertisements of the boat line from San Francisco to Portland?

A. I don't think I have.

Q. Never saw any?

A. I don't think I have; I don't recollect it.

Q. But in some way it comes to the notice of——

A. That is trifling, you know.

Q. But in some way it comes to the notice of the public that the boat line is there and carrying passengers?

A. I think so, undoubtedly.

Q. Now, you do that advertising with a view of getting people to travel over the Shasta route, don't you? You don't do it just for fun?

A. Creating travel.

Q. People have to travel. You want them to go that way?

A. We created all the travel we have on that line.

Q. Did you?

A. Yes, sir; by our advertising.

Q. And from whom did you take it?

A. We didn't take, we made it; induced the people to go there.

Q. No, but I am speaking of travel between San Francisco and Portland.

A. We didn't take it. I don't think we have taken any from the steamships. I think they have as much as they ever had, today.

Q. Of the local business?

A. Of business, whatever business there is.

6706 Q. You don't do any local business? Do I understand you that you have not taken any passenger business between those places, locally?

A. I think some of it, yes.

Q. A great deal of it? Most of it is local, isn't it?

A. No, sir, not by any means.

Q. A vast amount of it is?

A. I don't know. I can't tell you as to the proportions.

Q. Then, as I understand, to sum it up, your position is that passengers can go either way, but that, so far as you know, there is no effort made by your organization or the steamship organization, to take the business away from each other; is that about the substance of it?

A. Barring the nonsensical warfare that we had at one time, just as much now as ever.

Q. You did have a warfare at one time?

A. Yes. You know that. It is in the record.

Q. When was that war?

A. It was in the nineties some time.

Q. Who ran the O. R. & N. at the time of that war?

A. The O. R. & N. Steamship Company, I think.

Q. Who was the active man at the head of affairs at that time? Was it Mr. McNeill?

A. I think it was McNeill; I am not sure whether it was McNeill or Mohler.

Q. And at that time when McNeill had that steamship war with you, or that war of rates with you, you put your rates very low, didn't you?

A. I believe they went as low as five dollars.

Q. And you published a tariff, in which you stated that your rates were forced by the excessive competition of the ocean
6707 lines, didn't you?

A. Very likely. I don't remember that.

Q. The tariff is in the record.

A. Then you don't need my statement.

Q. Well, you remember it, don't you?

A. No, I do not remember it.

Q. You remember the fact that you did put your tariff down as an act of competition?

A. I have already testified to that—that we put the rate down to five dollars.

Q. As an act of competition, to get business?

A. You may say so.

Q. Well, I ask you to say so.

A. I do say so.

Q. Yes, that is what I knew.

A. At that time.

Q. Now, at the present time, as I understand you, there is no competition, and has not been since that war? Do I understand you to mean by that that you make your rates irrespective of the ocean rates?

A. Yes.

Q. And are not affected by the ocean rates?

A. I think so. Now——

Q. Just a moment. You have answered. I will put another question.

A. Will you permit me to explain?

Q. Yes, make your explanation.

A. Suppose you turn around, so I can look at you.

Q. I will in just a minute. I am getting a memorandum I have here.

A. All right.

6708 Q. Go ahead with your statement, Mr. Stubbs.

A. When I use the term "competition" in all of this testimony, I am using it in the sense of a competition that is in restraint of trade. Remember that.

Q. Now, you have just stated that the rail rates are made without reference to the ocean rates. Do you know Mr. Jones, of San Francisco, who has something to do with the Southern Pacific Railroad?

A. I have heard of him, yes.

Q. What is his position?

A. He is freight traffic manager of the Southern Pacific.

Q. Would the fact that Mr. Jones testified, and his testimony is in this record, to the effect that whenever Mr. Schwerin for any reason, perhaps of increased expense in operating boats, put up the rates between San Francisco and Portland, the rail rates went up automatically at the same time, affect your testimony that they are not affected?

A. He ought to be a better authority than I as to the facts today.

Q. Then, possibly you were mistaken about that statement that the ocean rates do not affect the railroad?

A. I do not know what Mr. Jones testified to.

Q. I can show it to you; it won't take but a minute.

A. Then, you do not need any further answer from me.

Q. I want to know if his opinion affects yours.

A. I have already said that Mr. Jones' testimony would be better than mine.

Q. You testified yesterday that you were acquainted with Mr. Luce.

A. Yes, very well.

6709 Q. He is the general freight agent?

A. Yes, I know Mr. Luce.

Q. Would the fact that Mr. Luce testified as follows, in a recent case pending before the Interstate Commerce Commission upon this subject, affect your opinion? He was being examined by Mr. Dubrow:

"Mr. DUBROW. And I also understand that from Portland south as far as Albany, the Willamette river is navigable, and that in some measure affects the San Francisco-Portland rate.

"Mr. LUCE. Yes. They have made reference to the rates from Portland. The rates from Portland by rail are held down by the Willamette river as far as Albany, 80 miles. When these rates were

first placed in effect the competition was quite severe, but now it is not so severe, though at the same time these rates cannot be raised beyond to a normal rail rate of what we would charge if the water had not been there, because it is not our policy after we have met the steamer rates locally to advance them.

"Q. Now, outside of the competition by way of the inland water ways between San Francisco and Portland and Los Angeles, you have other competition, do you?

"Mr. LUCE. The competition of the sea from here to Los Angeles and from here to Portland, which is well known." (This testimony was given in San Francisco.)

"Q. And is that competition so severe as to have had the effect upon the San Francisco-Portland, and San Francisco-Los Angeles rail rates?

"A. Certainly it has.

6710 "Q. So that I understand from you that the rates by way of the Southern Pacific Company from San Francisco to Portland, and from San Francisco to Los Angeles, and in the opposite directions, had forced and compelled a rate dictated by the carriers operating on the Pacific Ocean.

"A. Yes, sir."

That is rather an involved question, but that is the way the question is asked, and he said "Yes, sir." Now, does the fact that Mr. Luce so testified alter your view that the railroads are in any way affected now by the ocean rates?

A. I do not know what Mr. Luce had in his mind. I do not think I have said that the rail rates were in no way affected by the ocean carrier.

Q. I think you did.

A. Now, wait a moment, please. There is not any question about the general fact that, the ocean being there, the general scale of rates between San Francisco and Portland, as everywhere else where like conditions exist, is much lower than it would be were no ocean there. Now, if that is the kind of competition that you refer to, we are not talking about the same kind of competition. As I said to you, I am talking continually in this testimony with respect to competition that has the effect or might be reasonably supposed by a court or a jury to have the effect of restraining trade.

Q. Yes, I understood that was the sense in which you were using it. And it is your opinion that however much competition of one sort or another there may be, it is not that kind of competition?

A. That is what I mean.

6711 Q. How frequent is that steamship service now between Portland and San Francisco?

A. I think it is every five days.

Q. Isn't it only once a week?

A. I am not sure.

Q. Haven't you lengthened it out, since you got control of both lines, to a week?

A. I haven't anything to do with it.

Q. Mr. Stubbs, these tabulations, numbered Defendants' Exhibits 45 to 54 inclusive, have all been made up by auditors and given to you, have they not, and you personally know nothing about these figures?

A. Well, I hardly know what you mean by that.

Q. These are statements, purporting to be made with reasonable accuracy, of tonnage movements by different routes, and revenue, and all that?

A. I think that that is correct with the exception of where there are estimates. I think I may have had something to say with regard to what would be a proper estimate. You will notice where the records were destroyed that we made estimates. I think, with that exception, that all the other figures are from the auditors' records, or have been secured by the auditors from some source.

Q. Then, Mr. Stubbs, you know personally nothing about the accuracy of these figures, but in some cases you have joined with others in making up what you regard as a fair estimate?

A. I think that is a fair statement.

Q. Aside from that you do not undertake to testify as to the correctness of these figures?

A. You may say that I personally do not know anything about the correctness of the reports that are made to me, but they
6712 are my guide in the conducting of the general business of the company that is put in my charge.

Q. Of course, I understand, but you are on the stand as a witness now and you are supposed to testify to things within your own knowledge.

A. I think your statement is a fair one, but whether it vitiates my testimony——

Q. Well, the men are available who made them up, anyway?

A. I think so.

Mr. DUNNE. In fact, we made up statements for you that you put in the record, Mr. Severance.

Mr. SEVERANCE. Certainly. Mr. Stebbins verified them.

Mr. DUNNE. We have verified statements for you.

Mr. SEVERANCE. Those were verified by Mr. Stebbins, and I understand he is to go on the stand.

Mr. DUNNE. Yes.

By Mr. DUNNE:

Q. Mr. Stubbs, in reference to the freight business between San Francisco and Portland and the rates applying by rail, you have stated that the proximity of the ocean was itself a factor, as it always is under those circumstances, in the establishment of the rail rates. Let me ask you, in addition to that, if over and above these two steamships of the O. R. & N., with their five days' service, there are other water craft plying upon that highway between San Francisco and Portland?

A. I understand so. I cannot give you what they were, but I think perhaps it is in the record.

6713 Q. Now, I will ask you the question whether the operation of freight trains between San Francisco and Portland, and conversely, prior to 1901, and since this foolish rate war that you have spoken of, freight and passenger, whether the operation of the freight train by the rail carrier between San Francisco and Portland made any substantial impression, as a matter of fact, upon the freight business of the steamship companies?

Mr. SEVERANCE. I object to that as purely speculative.

A. It has not.

Q. Passing to the passenger business between San Francisco and Portland, I will ask you the question whether you would have advertised the Shasta Route and expended these large amounts of money in giving publicity to that method of carriage for passengers—if you would not have done those very things if the O. R. & N. Company steamboats had never turned a wheel between Portland and San Francisco?

Mr. SEVERANCE. I object to that as purely speculative.

A. We certainly would have done it just as the D. & R. G. did it for its scenic route.

Q. In other words, as you said, you were creating traffic for the line?

A. That is exactly what we did.

Q. Mr. Stubbs, Mr. Severance has read to you some testimony from Mr. Graham about this paper mill on the Willamette River, which he said was given by Mr. Graham in answer to questions by Mr. Cotton; so I suppose Mr. Severance will not object to a few answers by Mr. Graham responsive to questions put by Mr. Severance.

6714 I will read them to you and ask you if they express the situation. I am reading from page 2693 of the printed record—speaking of sixteen years ago, going back as far as that:

"Q. Was the O. R. & N. Company operating boats on the river at "that time?

"A. Yes, sir.

"Q. What time did they cease?

"A. About a year and a half ago, above Oregon City.

"Q. Do they still run to Oregon City?

"A. They run to the Oregon City locks, to the paper mills.

"Q. One boat?

"A. One steamer called the 'Ruth.'

"Q. Do they handle any traffic now with the exception of the "output of that mill?

"A. Supplies to the mill and the output from the mill.

"Q. Do they handle it all?

"A. Yes, sir. They take all the output; we handle a little of the "supplies in.

"Q. You didn't participate in the output at all.

"A. No, sir.

"Q. How far from Portland is Oregon City?
"A. Thirteen miles by river.
"Q. How far by rail?
"A. Fifteen by Southern Pacific, and a little over fourteen by "Oregon Water Power.
"Q. Oregon Water Power, an electric line?
"A. Yes, sir.
"Q. Does the Southern Pacific reach this paper mill?
"A. No, sir.
"Q. How far are they from it?
"A. Right across the river. The paper mills are in the locks and "they are inaccessible even to a team.
"Q. The product can only come in by boat?
"A. Yes, sir."

Is that your understanding of the situation there?

A. That is what I understand it to be.

6715 Mr. SEVERANCE. That is correct; there is no doubt about that. That is what he said.

By Mr. SEVERANCE:

Q. In answer to Mr. Dunne you were speaking about those outside lines.

Mr. DUNNE. What page, Mr. Severance?

Mr. SEVERANCE. I am now at page 2742.

Q. The only regular outside line of boats running to Portland was the California & Oregon Company steamship, wasn't it?

Mr. DUNNE. Excuse me for interrupting you. Are you reading from the testimony of Baumgartner?

Mr. SEVERANCE. Yes.

A. I cannot answer intelligently as to the number of outside steamers or of the schooners, but we can get it for you, I think. I think we have papers that will show it, and we can put them in evidence if you want them. I think Mr. Miller has that fully.

Q. Mr. Baumgartner testified at Portland that he was general agent at Portland, for ten years, of the California & Oregon Coast Steamship Company and that there was no other regular line of steam schooners operating between there and San Francisco. He told how many boats they ran. I suppose Mr. Miller will know about this, too.

Mr. DUNNE. Is Baumgartner of the——

Mr. SEVERANCE. Of the California & Oregon Coast Steamship Company.

WITNESS. How about the Truckee Lumber Company steamers?

6716 Mr. SEVERANCE. I don't know. I am speaking about what Baumgartner said. Then Mr. Baumgartner testified that in 1898 or the first day of 1899, when he took charge of the business, there was an agreement in force between his Company and the O. R. & N. Company by which the O. R. & N. Company subsidized his com-

pany to maintain the rates, and that arrangement continued until about 1903, and that they did maintain the O. R. & N. boat rates between there and San Francisco. Now, if that was the only other regular line and they were under a substantial agreement to maintain rates made by the O. R. & N., then this outside competition that you speak of that might have affected rates irrespective of the O. R. & N., did not exist at that time, did it,—in 1901?

A. If that was the only boat and those facts were true, it would be a very much neutralized competition.

By Mr. DUNNE:

Q. You do not mean to be understood for a moment as saying that that would be the only water craft plying between those two ports?

A. No; I said if that was the only line.

(A recess was here taken until 2 o'clock p. m.)

6717 AFTERNOON SESSION.

Mr. DUNNE. I would like to have it appear in the record that the various statements were offered in evidence by me this morning.

Mr. SEVERANCE. I want to object to them, then.

Mr. DUNNE. I had them marked, and the reporter called my attention to the fact that I had not formally offered them in evidence.

Mr. SEVERANCE. I understood you had them marked simply for identification. I object to them as incompetent and no foundation laid for their introduction. That objection applies to each of the exhibits identified this morning.

Mr. DUNNE. We will call the auditor.

Mr. SEVERANCE. You can offer them again when the auditor is on the stand.

Mr. DUNNE. I will not call the auditor today.

LEWIS J. SPENCE.

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination by Mr. DUNNE.

Q. Mr. Spence, what is your full name?

A. Lewis J. Spence.

Q. And where do you reside?

A. New York.

Q. What is your occupation?

A. I represent the Southern Pacific Company.

Q. In what capacity?

A. As general eastern freight agent of the rail lines and
6718 general freight agent of the Atlantic steamship lines.

Q. Will you please detail your experience and various capacities with the Southern Pacific Company?

A. Since October 7, 1885, I have been connected with the Southern Pacific Company as stenographer, secretary, chief clerk, and eastern freight agent in the office of the general eastern agent, and the assistant general traffic manager at New York. Since March 1, 1902, as general eastern freight agent of the Southern Pacific Company and of the Pacific Coast Steamship lines from San Francisco to the Orient, namely, the Pacific Mail Steamship Company, the Occidental & Oriental Steamship Company, and the Japanese line.

Mr. SEVERANCE. Will you speak a little louder, please?

WITNESS. Namely, the Pacific Mail Steamship Company, the Occidental & Oriental Steamship Company and the Japanese line. Since February 15, 1906, as general freight agent of the Atlantic steamship lines of the Southern Pacific Company, in addition to general eastern freight agent of the lines previously named.

Q. Your jurisdiction as general eastern freight agent of the Southern Pacific Company and the Pacific Ocean steamship lines covers Atlantic seaboard territory, I believe?

A. Atlantic seaboard territory.

Q. What is your jurisdiction as general freight agent with reference to the steamship lines between New York and the Gulf?

A. As general freight agent I am in charge of the freight traffic of the steamship lines between New York and the Gulf.

6719 Q. What are the two Gulf ports?

A. New Orleans and Galveston.

Q. What is the Atlantic seaboard territory that you refer to?

A. The Atlantic seaboard territory embraces all territory east of a line drawn from Toronto, Canada, through Buffalo, following the western boundary of New York state, down through Pennsylvania, just east of Pittsburg; Wheeling, West Virginia, Charleston, West Virginia, to the Southern boundary of Virginia at about Bristol, Tennessee, and north of a line drawn thence east by the southern boundary of Virginia to the Atlantic Ocean.

Mr. SEVERANCE. There is a map in evidence that shows that, Mr. Dunne.

Q. What has the Atlantic Coast steamship service consisted of since the opening of the Sunset Route? I mean in the way of a description of the lines, as a line between what points, in the first instance.

A. When the Sunset Route was opened, in 1883, the steamship service consisted only of a line between New York and New Orleans, or, more correctly speaking, Algiers, across the river from New Orleans.

Q. Then, Galveston, that other port you spoke of, came later?

A. Came later.

Q. What was the number of regular sailings in each direction while you were operating between New York and New Orleans?

A. Maximum sailings of three a week.

Q. When did the steamship service between New York and Galveston begin?

A. The service between New York and Galveston was inaugurated with the despatch of a steamer on August 2, 1902, from New York.

6720 Q. What were the sailings as between New York and Galveston?

A. The sailings between New York and Galveston have been a minimum of three a week.

Q. After the installation of that service between New York and Galveston, what became of the earlier service between New York and New Orleans? Was that service discontinued?

A. It was not. From the second of August, 1902, two steamers weekly were despatched between New York and Algiers and three steamers weekly between New York and Galveston, making five sailings a week from New York.

Q. Since the second day of August, 1902, has the fleet between New York and the Gulf been augmented to any degree?

A. At that time the fleet consisted of sixteen steamers. It has since been augmented by the construction of three passenger and freight steamers, at a cost of about three million dollars; by the acquisition and construction of a lighterage fleet at New York, at a cost of half a million dollars; and there are now under construction four new freight steamers, at a cost of about two and a half million dollars.

Q. Since August, 1902, have the Galveston facilities been enlarged or improved?

A. Yes. Our people have established expensive wharves and terminals at Galveston since that time for the accommodation of traffic handled through that port.

Q. Have you in contemplation any extension of wharf facilities in New York harbor on this same business?

A. Yes. Within two months we expect to remove to more commodious wharves in New York, at a rental of 100 per cent increase, approximately, over our present rental.

6721 Q. Apart from the four new freight steamers now under construction, how many steamers are there now in service?

A. 19.

Q. What is the line between New York and New Orleans composed of in respect to the character of the traffic?

A. Passenger and freight steamers.

Q. How is it between New York and Galveston?

A. Exclusively freight ships.

Q. What are the merchandise freight cargoes in point of tonnage that can be carried by the ships now in the fleet?

A. The ships now in the fleet will take average cargoes of merchandise of from 2,500 to 3,000 tons each.

Q. Between the Atlantic seaboard and what points is the Southern Pacific Company engaged in traffic?

A. The Morgan Line (steamship line of the Southern Pacific Company) is engaged in traffic between the Atlantic seaboard and Mississippi, the east coast of Central America, Louisiana, Arkansas, Texas, Oklahoma, Mexico, New Mexico, Arizona, California, Colorado, Utah, China, Japan, and Oregon.

By Mr. SEVERANCE:

Q. Did you name Nevada or did you eliminate Nevada?

A. I should have included Nevada.

Mr. SEVERANCE. I thought so; that is the reason I suggested it.

By Mr. DUNNE:

Q. Can you specify here what portion of that territory the Union Pacific has not been in service to as a carrier?

A. The Union Pacific has never engaged in traffic between Atlantic seaboard territory and Mississippi, the east coast of
6722 Central America, Louisiana, Arkansas, Texas, Oklahoma, Mexico, New Mexico, or Arizona.

Q. Is there any way in which the Union Pacific can practicably engage in business to that territory from the seaboard?

A. I can not conceive of any way in which they could.

Q. During the fiscal year ending June 30, 1900, what percentage of the total seaboard business of the Southern Pacific Company, Morgan Line, was represented by this territory which you have eliminated so far as the Union Pacific is concerned?

A. 60.46 per cent of the combined east and westbound tonnage.

Q. Have you that percentage for 1898?

A. 60.21 per cent.

Q. Have you heard of the so-called Portland route, by way of Portland and the ocean to San Francisco?

A. I have heard of it recently.

Q. By the way, how long have you been in this Sunset business?

A. Nearly twenty-five years.

Q. Has that route, so far as you know, ever been operated for business from the Atlantic seaboard to San Francisco or California points?

A. It has been a part of my duty to keep track of the lines engaged in the same business that we are engaged in, and I never heard of that line being engaged in the traffic between Atlantic seaboard territory and California until recently—I never heard of it until recently.

Q. I think the table of distances involved in the route, the mileages, have been given, and I will not take up your time with that: but would the question of wharf delivery—I don't know that that
6723 point has been touched upon here—would the question of wharf delivery at San Francisco be a factor in connection with the practicable or impracticable character of that route?

A. It would be a very important factor, in my judgment.

Q. In what way?

A. Our experience is that taking freight to a port reached by steamship lines, at equal rates with an all-rail line, we are never able to get a substantial share of the traffic because of the convenient facilities for delivery that the all-rail lines offer. They have their side tracks, spurs, delivering depots, usually have more than one in a town and convenient to the consignee or shipper.

Q. With respect to the traffic from the seaboard to California, or in the opposite direction, is there some traffic that would not stand transportation by way of the Portland route?

A. There is considerable traffic of that kind.

Q. Of what character?

A. For example, harnessed pianos shipped from New York; the cheap pianos are harnessed right in the freight car. They cannot move by water at all, or part water and rail route. Take the immense cracker business of the National Biscuit Company; it is put up in such frail form of package that they ship exclusively by all-rail routes, to enable them to load in the original car and send through to destination. Take earthenware and crockery: that is shipped out of here, at Trenton, N. J. They pack that in the cars in straw; it is not in packages. It cannot be handled by the water and rail route. Those are fair examples.

Q. Did you ever know of any business in a substantial sense going to California territory by way of the Pacific Ocean route, through the Puget Sound gateways?

A I never did.

6724 Mr. SEVERANCE. You don't term Vancouver a Puget Sound port?

Mr. DUNNE. Yes.

Mr. SEVERANCE. You include that?

WITNESS. Do you include Vancouver in your question?

Mr. DUNNE. Yes.

Mr. SEVERANCE. I didn't think he would answer that way if you did.

WITNESS. I think I would answer his question that way because he said a substantial share of the traffic. There was traffic which moved through Vancouver at the time they had differential rates in effect to San Francisco, but it was not substantial as compared with the total traffic.

Q. However it was, how long did it last after that differential was withdrawn?

A. The movement absolutely stopped after that differential was withdrawn.

Q. By the way, Mr. Spence, if the Southern Pacific lines in California had stopped at the Southern boundary of the state, if the Southern Pacific had not been in the management of the entire line from coast to coast, what effect would that have had upon the devel-

opment of transcontinental business by the Sunset Route into California?

A. The Sunset Route, in my judgment, would never have been able to secure a substantial share of the traffic between Atlantic seaboard territory and California if the Southern Pacific short haul had been to Los Angeles, we will say, or to the Southern boundary of California, and its longer haul to Ogden; or, in other words, if
6725 the influence of the Southern Pacific Company upon that traffic had been exerted in favor of the Ogden haul, the Sunset Route could never have made the progress that it made in getting business.

Q. The Southern Pacific would naturally have preferred its long haul, would it not?

A. Its long haul, yes.

Q. What effect has this large percentage of business to southern and southwestern territory, that you have mentioned, distributed by the Sunset Route, had upon the number and frequency of the sailings of the ships?

A. The volume of the traffic to and from the southwestern territory described is what has enabled the Sunset line to maintain sufficiently frequent sailings between New York and the Gulf to remain an important factor in the California business.

Q. In respect to California business, including business to Los Angeles, and interior points, not available to the Portland route, but excluding all that business,—to what extent would the California business of itself, without regard to this southern and southwestern business, have been able to sustain the sailings of the Morgan Line?

A. The California business would not have supported more than one-third of the steamship service that is in operation between New York and the Gulf—our steamship service.

Q. I will ask you if, in all the twenty-five years of your railroad experience—and I understand that your experience, railroad and steamship, has been in connection with this Sunset line,—during all of that time did you ever know of any business to move to California by that Portland route?

A. I never did.

Q. Or from California?

A. I never did.

6726 Q. Some figures have been introduced here by Mr. Blye, one of the Government witnesses, showing a declination in percentages in respect to westbound tonnage of the Morgan Line, from 77.17 in 1895 to 39.6 in 1899, and 38.6 in 1901. You are familiar with that testimony?

A. Yes, sir.

Q. Did those statements of Mr. Blye refer to the Sunset business from New York City?

A. They cover the business from New York City only.

Q. Now, Mr. Spence, with your knowledge of that business, can you give us any explanation for these decreases in the relative takings? I am not speaking now of absolute takings, but I am speaking

of relative or comparative takings. Can you give us any explanation for the decrease in those comparative statements?

A. The statistics included tonnage from New York City by the Sunset Route and by the trunk lines, respectively, not only to California, but to Nevada, western Idaho, Oregon, Washington, and British Columbia. The Sunset Route's share of the traffic in which we are substantially engaged was practically confined to California. There was an enormous growth of traffic in the Northwest, and almost that entire growth was reflected in the tonnage of the trunk lines, which very materially increased their percentage, while the Sunset percentages were not correspondingly increased.

Q. By the way, I think there was some statement made that you had discontinued furnishing statements of Pacific Coast tonnage. How did you come to do that, Mr. Spence?

6727 A. The statements had been furnished for a number of years. They were not begun by me. After I took charge of the office, after I succeeded Mr. Hawley, March 1, 1902, I could not discover any value in them to us, whatever value there might have been to the trunk lines, first, because they did not reflect the true situation. The trunk lines' percentages had been gradually increasing by this expansion of Northwestern traffic, in which the Sunset did not participate, and they appeared to me to serve no purpose whatever, and as a practical proposition I simply cut out the clerical work of my office, discontinued the statements, entirely of my own initiative and responsibility; in fact I did not report to anybody that I had done so—I just did it.

Q. I have been speaking to you about the relative takings of the Sunset Line, but now, looking at its business absolutely, was there any increase in the tonnage east and west, of the Sunset line, between the years June 30, 1900, and June 30, 1907?

A. In that period there was an actual increase in the Sunset tonnage east and westbound of about 70 per cent.

Q. Have you the figures, and will you give them to us?

A. In the fiscal year ending June 30, 1900, 204,827 tons; in the fiscal year ending June 30, 1907, 348,673 tons—an increase of 143,846 tons.

Q. That is what you base your 70 per cent on?

A. Yes; of the actual takings.

Q. There was a service from the Atlantic to the Pacific coast in early days by clipper ships around Cape Horn, as we have been told in this record many times. When was that superseded by

6728 steamships through the Straits of Magellan?

A. On the 15th of October, 1909.

Q. Oh, now that you mention the year 1900, I will ask you if between the year 1900 and say the year 1902, for instance,—if during that period of time the Panama Railroad Company was giving service between New York and California? I am not speaking now of the Pacific Mail Steamship Company but of the Panama Company.

A. Yes, the Panama Railroad maintained a service by the Isthmus.

Q. They maintained a service. Was that partial or complete service between the Atlantic and Pacific coasts?

A. It was complete service of their own.

Q. What were its component members?

A. Steamships operated between New York and Colon by the Panama Railroad, the rails of the Panama Railroad across the Isthmus, and steamships chartered and operated by the Panama Railroad between Panama and San Francisco.

Q. Between the 15th day of December, 1900, and the 11th day of June, 1902, was the Pacific Mail Steamship Company engaged in the transcontinental business between the Atlantic and the Pacific coasts?

A. It was not. A 5-year contract between the Pacific Mail and the Panama Railroad expired December 15, 1900, and between that date and June 11, 1902, the Panama Railroad operated its own steamers on both sides of the Isthmus, and the Pacific Mail was out of the business.

Q. Was out of the business?

A. Was out of the business.

Q. Did the Pacific Mail have any steamships in those waters to the west of the Isthmus?

6729 A. Yes, the Pacific Mail was still engaged in the business to and from the west coast of Mexico and Central America.

Q. What may be called its local business?

A. Yes.

Q. You say that the clipper ships via the Horn were superseded by steamships through the Straits of Magellan in 1900?

A. Yes, sir.

Q. What was the name of the company operating those steamships?

A. The American-Hawaiian Steamship Line.

Q. What was the name of that service? How long was it continued, and if it gave way to any new service, what was that?

A. That service through the Straits of Magellan was continued until January 1, 1907, when it was superseded by service by the Isthmus of Tehuantepec, composed of the American-Hawaiian Steamship Line on the Atlantic side, the Tehuantepec Railroad across the Isthmus, and the American-Hawaiian Steamship Line on the Pacific side.

Q. I think some question was asked by Mr. Severance, yesterday, in respect to separate agents in New York City, for the one a Union Pacific agent so-called, and the other a Southern Pacific agent so-called. I may assume, may I not, that you are the Southern Pacific agent?

A. You may.

Q. And as such what line or haul do you represent?

A. I represent one line from New York to San Francisco, and another line from Ogden to San Francisco.

Q. Now, the Union Pacific agent in New York—there is one, so-called, is there not?

A. There is.

Q. How long has the Union Pacific maintained an agent in New York?

A. As long as I can remember.

6730 Q. I don't know whether Bro. Severance mentioned it, but there has been a consolidation of agents in various places since the stock purchase of February, 1901; that is correct, isn't it?

A. In some sections.

Q. In some sections; but, as I understand you, there is today a so-called Union Pacific agent in New York and a Southern Pacific agent?

A. That is correct.

Q. Has that separation continued since the stock purchase of February, 1901?

A. It has.

Q. What is the situation in New York as between the so-called Union Pacific agent and the Southern Pacific agent in respect to transcontinental business moving from New York to California? Your function as Southern Pacific agent, I should assume, would be to work preferentially for the long haul?

A. That is correct; that is my first duty.

Q. What is the function of the representative of the Union Pacific-Southern Pacific systems, whom we will term for convenience the Union Pacific agent,—what is his function in this place? What is he doing?

A. He is soliciting California traffic for the Union Pacific line to Ogden and the Southern Pacific line thence to California.

Q. As long as you have been here in New York you have never known the entire New York business to be attracted to the decks of the Morgan Line ships, have you?

A. I regret to say I have not.

Q. A substantial tonnage moves west over the trunk lines, does it not?

A. Yes, sir.

Mr. SEVERANCE. To California?

WITNESS. Yes.

6731 Q. If that business goes to California all-rail it would leave the trunk lines where?

A. It would leave the trunk lines at Chicago or St. Louis.

Q. That tonnage is shown here in the record somewhere, is it not?

A. It is.

Q. Where would that tonnage leave the trunk lines if it did not move by the Omaha and Ogden gateways?

A. It would have to move over the Santa Fe road from Chicago to California.

Q. If it moved by the Rock Island it would go through the El Paso gateway, would it not?

A. Yes, sir.

Q. And over what rails would it then pass in going into California?

A. The rails of the Southern Pacific Company.

Q. Then, as to that business, what is the function and what are the duties of the Union Pacific agent (so called) here—and I use the term simply for convenience?

Mr. SEVERANCE. Wasn't he employed by the Union Pacific?

Mr. DUNNE. He is employed by the Union Pacific, yes.

Mr. SEVERANCE. I didn't know why you said "so called." I thought he was employed by them.

Mr. DUNNE. I did that out of deference to the sensibilities of your legal position in this case.

Mr. SEVERANCE. Oh! Much obliged.

Q. Now, go ahead, Mr. Spence.

A. The chief duty of the Union Pacific agent in the Atlantic seaboard territory, or for that matter any other agents in what you might call a foreign territory,—that is, a territory that is not reached directly by its own line, is to promote the relations of his company with the connections. The Union Pacific agencies in the
6732 Atlantic seaboard territory serve the purpose of maintaining harmonious relations with their connections—cultivate them, if you please, and the benefits that are derived by the Union Pacific from that cultivation are also derived by the Southern Pacific line from Ogden to California.

Q. If the traffic originating on the trunk lines goes over the Santa Fe from Chicago, for instance, neither the Union Pacific nor the Southern Pacific gets any part of the haul?

A. They do not.

Q. Then, every pound of business and every dollar of revenue that the Union Pacific solicits is as well for the Southern Pacific lines as for the Union Pacific, is it not?

A. In respect to California business.

Q. Mr. Spence, can you state the percentage of the total tonnage of the Southern Pacific Atlantic steamship lines for the fiscal year ending June 30, 1898, on this business?

A. Represented by the California business?

Q. Yes, to California.

A. 37.31 per cent.

Mr. SEVERANCE. I don't quite understand the question.

Mr. DUNNE. The percentage of the total business of the Morgan Line—of the total business that went to California, is 37.31 per cent.

WITNESS. The total tonnage of the steamship lines to California represents 37.31 per cent.

Q. Does that include Nevada?

A. It does.

Q. The business there is very small, trifling, isn't it?

A. Yes. Nevada business taken by the Sunset line has never amounted to anything.

6733 Q. And for the fiscal year ending June 30, 1900, what percentage of the Morgan Line tonnage, as you call it, was represented by the business to California?

A. To and from California?

Q. To and from, in both directions.

A. 34.79 per cent.

Q. And the figure for 1898 also represents the business to and from?

A. To and from.

Q. The east and westbound. Business moves from the Atlantic seaboard to Colorado and Utah points, does it not?

A. Yes.

Q. About how much of the total westbound business to Colorado and Utah originates in the Atlantic seaboard and did originate say in 1900?

A. It averaged about 22 per cent; that is, of the total business originating on and east of the Missouri River to Colorado and Utah, about 22 per cent originates in the Atlantic seaboard territory.

Q. Have you any information as to the distribution of tonnage on business to Colorado originating in Atlantic seaboard territory among the all-rail routes, the Atlantic port routes, and the Gulf routes, respectively—1900 and 1908?

A. During the calendar year 1900 the westbound business to Colorado from Atlantic seaboard territory was divided as follows: all-rail routes 57 per cent, Atlantic port routes 7 per cent, Gulf routes 36 per cent.

Q. In those days, in 1900, there was not much business, relatively speaking, by the Atlantic port routes?

A. Comparatively little.

Q. What are the figures for 1908?

6734 A. During the calendar year 1908 the division was as follows: all-rail routes 41 per cent, Atlantic port routes 43 per cent, Gulf routes 16 per cent.

Mr. SEVERANCE. Is this only Colorado?

Mr. DUNNE. This is Colorado. This is the percentages as among the routes.

Mr. SEVERANCE. I understand, but this is only Colorado.

Mr. DUNNE. I have not mentioned Utah.

Q. We have not the figures accessible for Utah for 1900, have we?

A. No, we have no old figures at all for Utah; in fact they were not compiled.

Q. Have you any figures for Utah for the year 1908?

A. For the calendar year 1908 the westbound traffic from Atlantic seaboard territory to Utah showed the following division: All-rail routes 45 per cent, Atlantic port routes 30 per cent, Gulf routes 25 per cent.

Q. Then, the Atlantic port routes and the Gulf routes, according to those figures, for 1908, would represent about 55 per cent?

A. About 55 per cent to Utah. They represent less than that to Colorado.

Q. How much would it be for Colorado?

A. In 1900 43 per cent and in 1908 59 per cent.

Q. 59 per cent. I thought it was a little more for Colorado than Utah?

A. Yes.

Q. About 4 per cent more?

A. The same year, yes.

Q. But for 1900 you have been able to get the figures for Colorado?

A. Yes, for Colorado, but not for Utah.

Q. It was 43 per cent?

A. Yes.

Q. While you have no figures expressing these comparative percentages for the early years, 1898 and 1900, for Utah, can you
6735 say how many tons of freight there were in this westbound business to Utah for 1898?

Mr. SEVERANCE. 1898, you say?

Mr. DUNNE. Yes, 1898.

A. Our own tonnage, you know; the other is a comparison of routes. This is our own tonnage.

Q. You are speaking now of the tonnage of the Morgan Line?

A. Yes, sir.

Q. For the year 1898?

A. For the year 1898.

Mr. SEVERANCE. From what place?

Mr. DUNNE. From the Atlantic seaboard to Utah.

Mr. SEVERANCE. Just to Utah, is it?

WITNESS. Yes. In the fiscal year ending June 30, 1898, the Morgan Line westbound tonnage for Utah consisted of 1,665 tons.

Q. The eastbound business was very small, wasn't it? If you have it you might as well mention it.

A. The eastbound tonnage that year was 97 tons.

Q. That makes a total, as I have it, of 1763 tons?

A. Of 1,762.

Q. Have you the revenue also?

A. Yes. The revenue, which represents the revenue of the steamship line to Algiers and the rail line from New Orleans to Fort Worth, on westbound traffic to Utah amounted to $25,123.70.

Q. And then on eastbound?

A. On the eastbound it amounted to $1,393.65.

Q. Are you giving the earnings for a month or a year?

A. A year.

Q. What was that total?

A. The total to Utah was $26,517.35.

6736 Q. Have you the corresponding figures for the year ending June 30, 1900?

A. The west bound tonnage Atlantic seaboard territory to Utah during the fiscal year ending June 30, 1900, consisted of 1632 tons;

the eastbound tonnage consisted of 180 tons; the combined tonnage consisted of 1812 tons.

Q. Have you the revenue also?

A. The revenue from New York to Fort Worth upon the westbound tonnage represented $24,372.91.

Q. And on the eastbound?

A. On the eastbound it represented $480.57. Making the aggregate combined earnings $24,853.48.

Q. Although we have not the figures for the comparative distribution of percentages among the rail routes and the broken service lines into Utah for 1900, we have this expression of the tonnage and earnings of the Morgan Line for that year as well as for the year 1898?

A. Yes, sir.

Q. So that the business via that line was quite unsubstantial?

A. Very.

Q. Have you any figures upon Colorado business for the same periods?

A. Yes. Shall I give them in the same form?

Q. Yes, if you please.

A. Westbound tonnage from Atlantic seaboard territory to Colorado during the fiscal year ending June 30, 1898, consisted of 4525 tons; eastbound consisted of 1384 tons. The combined tonnage was 5909 tons. The earnings from New York to Fort Worth, steamship and rail, on westbound traffic represented $46,733.24, and on east bound $9,580.93; making combined earnings of $56,314.17.

Q. Was that for the entire year—for twelve months?

A. The entire year ending June 30, 1898.

Q. What were the corresponding figures for the year end-
6737 ing June 30, 1900?

A. For the year ending June 30, 1900, the westbound tonnage from Atlantic seaboard territory to Colorado represented 14,673 tons; the eastbound tonnage represented 6938 tons, and the combined tonnage represented 21,611 tons. The earnings from steamship and rail from New York to Fort Worth on westbound consisted of $166,255.26; on the eastbound $35,917.89.

Q. What was the aggregate?

A. The combined earnings were $202,173.15.

Q. That covers an entire period of twelve months, does it not?

A. An entire period of twelve months in each case.

Q. After 1900 and after 1901, after the stock purchase by the Union Pacific of stock in the Southern Pacific Company, referred to in the record here, after that time was the Gulf route made up of the Southern Pacific Company's line from New York to the Gulf in connection with rail lines to the North, a route still maintained and operated?

A. It was.

Q. And the absolute takings increased between 1900 and 1907 or 1908 about 70 per cent, as you have stated?

A. No, that is California.

Q. On California business?

A. On California business, yes.

Mr. SEVERANCE. You have not asked him about Colorado and Utah in 1907.

WITNESS. We haven't that made up in this form.

Mr. SEVERANCE. What?

WITNESS. We have not any recent figures. We took two years prior to the acquisition.

Q. That 70 per cent increase was in the California business?

6738 A. Yes, sir.

Q. That was an absolute increase?

A. That was an absolute increase in the tonnage.

Q. Now, in reference to Colorado and Utah: the route, you say, was still maintained and operated?

A. Yes, sir.

Q. What did the Union Pacific's route to Colorado and Utah points, to the Gulf, consist of and what does it consist of now?

A. It consists of the Southern Pacific steamship line between New York and Galveston, the Galveston, Harrisburg & San Antonio Railroad Galveston to Houston, the Houston & Texas Central Railway from Houston to Fort Worth, the Colorado & Southern Railroad from Fort Worth to Denver, and the Union Pacific from Denver to Utah.

Q. The Colorado & Southern is the north and south line in this Gulf business?

A. The north and south line.

Q. Did the Union Pacific operate that line at any time prior to 1900?

A. The Union Pacific operated that line prior to the receivership.

Q. That would be prior to 1898, would it not?

A. Yes.

Mr. SEVERANCE. 1893.

Mr. DUNNE. Yes, but it would be prior, certainly, to 1898.

WITNESS. Yes. It was then known as the Union Pacific, Denver & Gulf.

Q. As Mr. Severance suggested this morning, the Union Pacific lost that rail line through these financial reverses?

A. That is right.

Q. But prior to the difficulties of the receivership, the Union Pacific was operating the Colorado & Southern to the Gulf

6739 in connection with the water lines to New York, on seaboard business, wasn't it?

Mr. SEVERANCE. Not to the Gulf.

WITNESS. It was operating what was then known as the Union Pacific, Denver & Gulf Railway between Colorado and Fort Worth.

Q. With rail connections to the Gulf?

A. With rail connections to the Gulf and steamship to New York.

Q. That is precisely what the Union Pacific is doing now, isn't it?

A. It is.

Q. Although, instead of being interested in the Colorado & Southern, it is said here upon the other side that the Union Pacific is somewhat interested in the Southern Pacific, which was the water end of the transaction.

A. Yes, sir.

Q. Have you prepared any map or diagram illustrative of the routes rail and water between the Atlantic seaboard and Colorado and Utah territory and between the Atlantic seaboard and California?

A. I have prepared one sketch representing the available routes to Colorado and Utah during the year 1901.

Q. As briefly as possible explain this map.

A. The map is a reproduction of the lines as they actually exist except that where they intersect and cross each other, for plainness, simplicity, they are drawn straight, side by side, so that each will show.

Mr. SEVERANCE. Are they drawn to a scale?

WITNESS. Yes, the map is practically drawn to a scale; in fact, as far as it could be, it is traced, except we had to make these
6740 changes to make it plain. You see the lines cross and recross like this. That substantially represents the route. These red lines represent the initial part of every differential line to Colorado and Utah—steamship line.

Q. The blue lines which follow upon the red lines, do they represent the rail connections of the water line?

A. The blue lines represent the rail connections of the water line from the ports as well as the all-rail lines from New York and Boston to Colorado and Utah.

Q. Does that map exhibit the south Atlantic port routes as well as the Gulf routes?

A. It does. It shows them as they existed at that time.

Mr. SEVERANCE. What time?

WITNESS. 1901.

Q. Is the Mallory Line exhibited on that map?

A. The Mallory Line is shown from New York to Galveston.

Q. How long has the Mallory Line been engaged in that water and rail business from the seaboard to Colorado and Utah?

A. Longer than the Morgan Line.

Q. Is it engaged in that business now?

A. It is.

Q. Do you mean that it has operated a continuous, unbroken service concurrent with the service of the Morgan Line and extending over a longer period of time?

A. Perhaps that was not an accurate answer to your question. Your question referred to how long the Mallory Line itself had operated?

Q. Yes.

A. My answer was that it had operated longer than the Morgan Line—a great many years.

Q. Between the Atlantic seaboard and the ports?

6741 A. Between the Atlantic seaboard and the ports, yes.

Q. And it has been operated continuously since 1901?

A. Yes, uninterruptedly.

Q. By the way, I call your attention to the relative falling off of the percentages on the Sunset Line in the takings of the seaboard business——

A. To Colorado and Utah?

Q. Yes—since 1901. I think you developed that in your figures, did you not?

A. Yes, sir.

Q. I will ask you if the Mallory Line has been similarly affected during the years that followed, say between 1900 and 1908 or 1909—during that decade?

A. There has been more than a corresponding decrease in the business of the Mallory Line to Colorado and Utah.

Q. There has not been anything singular or peculiar about the Morgan Line as distinguished from the Mallory Line in that aspect of the case?

A. There has not.

Q. Have you prepared a similar map or diagram of routes to California?

A. I have prepared a diagram of the principal available routes between New York and Boston and San Francisco as they existed during the year 1901.

Q. Will you give a general explanation of that diagram?

A. It does not represent every conceivable route to California; it represents just what it states—the principal available routes, which means the avenues of traffic which are used daily for the business between the seaboard and California. The green lines represent the railroads operating between New York and Boston on the one hand and San Francisco on the other, with the exception of the

6742 dotted green lines which represent the steamship lines which operated and engaged in California business, to the Virginia ports, to Algiers, Louisiana, and to Galveston, Texas, in 1901, and call attention to the fact that the same number of water routes are not shown on this sketch as on this other sketch because it is confined to the routes that were engaged in the California business. It shows, in addition to those indicated by the green lines, additional routes—it states, rather, additional routes, "A" by American-Hawaiian Steamship Company by Magellan, and "B" by Panama.

Q. Are these maps, to the extent that they go, correct representations of the available routes on the business specified therein?

A. They are.

Q. And these are various lines having through arrangements?

A. They are.

MAPS

TOO

LARGE

FOR

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Q. And forming through routes?

A. Yes, sir.

Q. Do I understand you that the through routing of one of these lines is confined simply to the line that physically follows it, some particular line, or do I understand you that through routes multiply into through routes? How is that?

A. Every line operating between New York and Buffalo can handle traffic over every line operating west of Chicago; so that the actual routes represented by this map would multiply into thousands.

Q. Do these Atlantic port routes, like the Gulf routes, have rail connections to the distributive territory in question?

A. They do; the Old Dominion Line through Virginia ports and the Mallory Line and the Morgan Line to the Gulf ports
6743 had rail connections with which they are engaged in the California business.

Mr. SEVERANCE. You don't show that, do you?

WITNESS. Yes.

Mr. SEVERANCE. Do you show the line of the Old Dominion?

WITNESS. The line of the Old Dominion, yes.

Q. Does this multiplication of routes apply as well to the map of Utah and Colorado routes as to California routes?

A. It does.

Q. You have not undertaken to express that multiplication of routes on account of the almost infinite detail that it would involve?

A. It would be an interminable job.

Q. You have endeavored to make that diagram as simple as you possibly could?

A. Yes; and to represent only the avenues of traffic that are used.

Mr. DUNNE. We will offer those diagrams in evidence and ask to have them marked.

Map headed "Available routes to Colorado and Utah during the year 1901" was marked Defendants' Exhibit 55 (Spence), and map headed "Principal Available Routes between New York, N. Y., & Boston, Mass., and San Francisco, Cal., during the year 1901" was marked Defendants' Exhibit 56 (Spence).

(Defendants' Exhibits 55 and 56 (Spence) face this page.)

Q. Mr. Spence, have you any expression as to the amount of business, Portland business, east and west bound, of the Sunset Line for the fiscal year ending June 30, 1900? I think the suggestion has been made that some business did go to Portland or from Portland. I would like to get it eastbound and westbound both.

6745 A. In the fiscal year ending June 30, 1900, the westbound tonnage of the Morgan Line to Portland consisted of 1,372 tons; the eastbound tonnage from Portland consisted of 2,026 tons; the combined tonnage aggregated 3,398 tons.

Q. Can you tell us what percentage that was of the total tonnage of the Morgan Line for the same period?

A. The combined east and westbound Portland tonnage represented 58/100 of one per cent of the tonnage of the Morgan Line.

Q. Can you give us for this other year we have been speaking of, 1898, the corresponding increase?

A. In the fiscal year ending June 30, 1898, the westbound tonnage of the Morgan Line to Portland consisted of 3483 tons; the eastbound business from Portland consisted of 1260 tons; the combined tonnage aggregated 4743 tons. The combined tonnage represented 9/10 of one per cent of the Morgan Line tonnage.

Q. Have you the earnings accruing upon business by the Sunset Route between seaboard territory and Portland, Oregon, for the fiscal year ending June 30, 1900?

Mr. SEVERANCE. That question is the earnings on——

Mr. DUNNE. The earnings on business by the Sunset Route between Atlantic seaboard territory and Portland.

Mr. SEVERANCE. Both ways?

Mr. DUNNE. Yes.

WITNESS. Do you want me to give it to you divided?

Mr. DUNNE. Yes.

WITNESS. The earnings upon westbound business to Portland were $31,130.34; the earnings upon eastbound business were
6746 $40,553.07. The combined east and westbound earnings aggregated $71,683.41.

Q. Is that for a whole period of twelve months?

A. That is for a whole period of twelve months, and it should be understood that those earnings represent the total system earnings.

Q. They represent the total system earnings for a full period of twelve months ending June 30, 1900?

A. Yes.

Q. What percentage was that of the gross freight revenue of the Southern Pacific Company for the same period?

A. The gross freight revenue of the Southern Pacific Company during the fiscal year ending June 30, 1900, was $42,851,952. The entire system earnings upon the traffic between Atlantic seaboard territory and Portland by Sunset Route represented 16/100 of one per cent of the gross freight earnings of the Southern Pacific Company.

Q. With reference to Oriental business: did the Sunset Route participate in that inbound business?

A. It never did. I said it never did. It may have carried 50 tons in a year, or something like that.

Q. But not any appreciable amount?

A. No.

Q. With respect to the outbound business, what was the principal transportation facility for the business originating in the Atlantic seaboard territory?

A. Excepting during the Japanese war, the principal carriers of that traffic were the Suez steamship lines.

Q. Was that true up to and including the year 1900?

A. It was.

Q. And up to and including the year 1901, also, I suppose?

A. It was.

6747 Q. Did any of the outbound business from the Atlantic seaboard, having Oriental destination, which went by the Sunset, go through Portland?

A. The traffic went entirely through San Francisco.

Q. Take the fiscal year ending June 30, 1900: what percentage would this Oriental business handled by the Sunset Line from the seaboard represent of the total tonnage of the Morgan line? I say for the fiscal year ending June 30, 1900.

A. The tonnage to China and Japan would represent 39/100 of one per cent of the Morgan Line westbound tonnage.

Q. That is for the year 1900?

A. Yes, sir.

Q. How many hundredths of one per cent?

A. 39.

Q. What were the earnings accruing upon business between the Atlantic seaboard territory——

A. You understand that 39 per cent is the percentage that represents of the total westbound tonnage; it would represent a very considerable less per cent of the combined east and westbound.

Q. You said 39 per cent. You mean 39/100 of one per cent?

A. Yes, of the total westbound tonnage of the Morgan Line.

Q. These are small fractions, but they have some significance.

A. They get so small that I almost lose them.

Q. What were the earnings accruing upon business between the Atlantic seaboard territory and these Oriental destinations via the Sunset route for the fiscal year ending June 30, 1900?

A. $24,998.24.

Q. What percentage did those earnings represent of the gross freight earnings of the Southern Pacific Company for the same period?

A. 5/100 of one per cent.

6748 Q. Of the gross freight earnings of the Southern Pacific Company for the fiscal year ending June 30, 1900, what did the earnings accruing upon the total Colorado and Utah business represent?

A. 53/100 of one per cent.

Q. And on the Portland business?

A. 16/100 of one per cent.

Q. And on the Oriental business?

A. 5/100 of one per cent.

Q. I think there was some testimony given by a witness for the Government, Mr. White, as to the number of commodity rates which were lower by the Morgan Line, the Gulf Line, to California, than by the all-rail line, in 1900, as compared with the number of commodity rates lower in the same comparison in 1909, and my recollection of Mr. White's testimony is that in 1900 the Morgan Line had 65 commodity rates lower than the all-rail rates from the seaboard

territory, and that in 1909, or up to date, as he expressed it, there were 26 or 29. Have you examined the tariff to ascertain if that statement was accurate?

A. I have.

Q. What has been the result of your examination?

A. The figures submitted for the first period were substantially correct. We make it 71 where he made it 65. But they were substantially correct. The figures submitted for the more recent period were, for some reason, very inaccurate. I have compiled it, and it can be checked by the transcontinental tariff to which reference is given, the I. C. C. number—a list of the actual items that are in effect lower from the Morgan Line pier than the all-rail routes from New York to California terminals, and it shows 77 items.

Q. Will you give those figures again, please?

6749 A. 77 items are shown to carry lower rates from the Morgan Line pier——

Q. At the present time?

A. At the present time—than the all-rail New York to California terminals.

Mr. SEVERANCE. Can we have a copy of that tabulation so we can have it checked?

WITNESS. You are going to put this in evidence, aren't you?

Mr. DUNNE. We will put that in evidence. Let that go in evidence as our exhibit, and will you give Mr. Severance a copy?

WITNESS. I presume there is a copy in the office. I will have a copy made.

Q. I would like to get those figures again.

A. 77 items.

Q. Up to the present time. For 1900 you found 71?

A. 71.

Q. Where Mr. White found 65?

A. 65.

The paper from which the witness was last testifying was marked Defendants' Exhibit 57 (Spence).

Mr. DUNNE. This is headed "Rates in effect January 25, 1910, in Transcontinental Freight Bureau Westbound Tariff No. 1 J, (R. H. Countiss, Agent, I. C. C. No. 904.) to California Terminals," and I formally and solemnly offer this in evidence.

The EXAMINER. What is the Exhibit number?

Mr. DUNNE. Exhibit 57.

Mr. SEVERANCE. As I understand Mr. Spence, this is something he made up himself?

WITNESS. Yes.

Mr. SEVERANCE. So that he knows it is correct?

WITNESS. Yes, it is an abstract of the tariff.

Mr. SEVERANCE. Of course if we find on checking with the tariffs that there are mistakes, I have no doubt Mr. Spence will be glad to correct them.

Mr. SPENCE. I will be glad to correct them, yes, sir.

Defendants' Exhibit 57 (Spence) is as follows:

6750

DEFENDANTS' EXHIBIT 57.

(Spence)

Rates in effect Jan. 25, 1910, in trans-continental freight bureau west-bound tariff No. 1–J (R. H. Countiss, Agent, I. C. C. No. 904) to California terminals.

Commodities. Rates in cents per 100 lbs.	From— M. L. pier, via Gulf. L. C. L.	M. L. pier, via Gulf. C. L.	New York, all-rail. L. C. L.	New York, all-rail. C. L.
Ammonia, sulphate of, in packages, min. wt. 40,000 lbs		60		
Asphaltum, in packages, min. wt. 60,000 lbs		55		
Automobiles, passenger and freight	6.00		7.00	
Barytes, min. wt. 60,000 lbs	1.25	50		
Bones, min. wt. 30,000 lbs		65		
Bottles, wine or beer, and whiskey, brandy, and mineral water bottles of similar shape, common flint, green, black or amber (not including druggists' prescription bottles and bottles of similar shape, or flasks, any style finish); common soda water bottles (not siphon); in bulk, or in boxes, casks, or crates, min. wt. 30,000 lbs		75		80
Bottles, mineral water, in packages, empty, second-hand, returned, min. wt. 24,000 lbs		75		
Brick (clay products), as follows:				
Common, paving or pressed, ornamental figured, shaped, invoice value not exceeding $5.00 per ton, min. wt. 50,000 lbs		50		
6751 Fire brick or fire brick and fire tile of various shapes and fire clay in straight or mixed carloads (but not including tank blocks or retort settings), min. wt. 40,000 lbs		50		
Tile, hollow (including fire clay, wall coping, chimney pipe, and flue linings), also conduits, underground, for electric wires, min. wt. 50,000 lbs		50		
Common or pressed (boxed or crated), ornamental figured (boxed or crated), shaped (boxed or crated), invoice value not exceeding $5 per ton	1.00			
Brick (clay products), fire brick (of common brick shape), and fire clay, boxed or crated	1.00			
Fire brick (of irregular shape), retort settings (including tank blocks for glass furnaces), and fire-clay linings for grates, stoves, or furnaces, n. o. s., boxed or crated	1.50			
Calcium, chloride of, in iron drums, min. wt. 40,000 lbs		55		
Canned goods, n. o. s., viz:				
Fish, fruits (not preserves), meats (including potted or deviled), canned meats with vegetable ingredients, olives, vegetables, beans, peas, ketchup, kraut, baked macaroni-and-cheese, soups, breads and puddings, in tin, glass, or earthenware, packages hermetically sealed, boxed, min. wt. 40,000 lbs		95		1.00
Canned corn, boxed, straight carloads, min. wt. 40,000 lbs		90		95
Canned fish, canned clam juice, and canned clam chowder, boxed, min. wt. 40,000 lbs		90		95
6752 Canned meats or meats in glass, hermetically sealed (including potted or deviled), boxed, straight or mixed carloads, min. wt. 40,000 lbs		90		95
Canned beans and canned peas, boxed, min. wt. 40,000 lbs		90		95
Canned tomatoes, boxed, min. wt. 40,000 lbs		90		95
Canned goods (fermented, i. e., "swells"), returned to packers in original package with original labels	85			
Cement, building or paving, n. o. s., in packages, min. wt. 40,000 lbs	1.00	50		
Cement (tar), building or paving, in packages, min. wt. 60,000 lbs	1.00	60		
Cereal and cereal products, viz, brewers' grits, brewers' meal, brewers' cerealine, corn meal, corn chop or chop feed, chopped corn, cracked corn, and hominy, straight or mixed carloads, min. wt. 30,000 lbs		70		80
Copperas or sulphate of iron, in packages, min. wt. 40,000 lbs		60		
Drums, iron, empty, returned, min. wt. 20,000 lbs		50		
Fertilizer, n. o. s., including dried blood, tankage, and phosphate rock, min. wt. 40,000 lbs		60		
Food, poultry, viz, ground meat and bone, alfalfa meal, blood meal, clover meal, gluten feed, gluten meal, cut alfalfa, cut clover, grain screenings, crushed shells, charcoal, and dry whey refuse, in packages, straight or mixed carloads or in mixed carloads with millet seed, in packages, min. wt. 30,000 lbs	1.25	60		

Rates in effect Jan. 25, 1910, in trans-continental freight bureau west-bound tariff No. 1-J—Continued.

Commodities. Rates in cents per 100 lbs.	From—			
	M. L. pier, via Gulf.		New York, all-rail.	
	L. C. L.	C. L.	L. C. L.	C. L.
Gas liquor or ammoniacal liquor, in iron drums, min. wt. 50,000 lbs		50		
6753 Hemp, sisal, istle or ixtle, in bales, min. wt. 24,000 lbs		60		75
Iron and steel articles, viz:				
Billets, blooms, ingots, muck bar and scrap steel, min. wt. 60,000 lbs	1.00	60	1.25	65
Pig, min. wt. 60,000 lbs	1.00	50		
Pipe fittings and connections, including traps, cleanout fittings, cocks or valves, wrought, cast or malleable or iron body cocks, valves and pipe connections (the bodies or principal parts of which are iron, but having brass pieces or parts), screwed, flanged or with hubends; also, wrought iron pipe bends, with or without wrought or cast iron flanges, min. wt. 30,000 lbs		65		70
Shingle bands, iron or wire, in packages, min. wt. 40,000 lbs		70		80
Ties, baling, in packages, min. wt. 40,000 lbs		70		80
Lime (including hydrated lime), in barrels, boxes, bags, or in bulk, min. wt. 40,000 lbs		50		
Lime, acetate of, in barrels, boxes, casks, or iron drums, or in sacks, min. wt. 40,000 lbs		50		
Limestone and whiting, ground or lump, in packages, min. wt. 60,000 lbs		50		
Lumber, n. o. s. (including built-up, combined, or veneered wood), except woods of value (i. e., cocobolo, ebony, lignum-vitae, and rosewood), min. wt. 40,000 lbs		75		.85
6754 Nails and spikes (not including railroad spikes or ship and boat spikes), cut or wire, n. o. s. (in boxes or kegs)				
Wire (fence), iron or steel, smooth-annealed, plain or galvanized				
Barbed, galvanized, or painted				
Staples				
Wire hoops				
Straight or mixed carloads, min. wt. 40,000 lbs		70		85
Nails, cement-coated, in boxes or kegs, min. wt. 40,000 lbs		70		85
Oil cake and oil-cake meal, min. wt. 40,000 lbs		60		
Onions and onion sets, in packages; charges must be prepaid or guaranteed, min. wt. 30,000 lbs		75		
Ore, iron, ground, min. wt. 60,000 lbs		60		
Strawboard, n. o. s., in crates or bundles, min. wt. 50,000 lbs		55		
Pebbles, in sacks or barrels, min. wt. 40,000 lbs		50		
Pipe, sewer (clay), and drain tile, min. wt. 30,000 lbs		65		
Pipe, sewer (clay), and drain tile, boxed or crated	1.00			
Plaster, building, in packages, min. wt. 60,000 lbs		50		
Plaster, land, in packages, min. wt. 40,000 lbs	1.25	60		
Rags, n. o. s., including carpet mill sweepings, in packages, min. wt. 40,000 lbs		60		
Railway equipment, viz:				
Cars, narrow gauge, or parts thereof, K. D., loaded on standard gauge cars, min. wt. 30,000 lbs		1.50		
Brake shoes, min. wt. 50,000 lbs		65		
Car wheels and axles, min. wt. 40,000 lbs		65		
6755 Resin, in barrels, min. wt. 40,000 lbs	1.00	50		
Rice, broken rice, and brewer's rice, in packages, straight carloads, min. wt. 40,000 lbs	1.10	65		
Rice flour, min. wt. 40,000 lbs		75		
Rice polish (rice dust), rice bran, or rice hulls, in packages, straight or mixed carloads, min. wt. 40,000 lbs	1.10	65		
Salt, min. wt. 40,000 lbs		60		
Sand, sand facing, flint sand and fire sand, ground or unground, also granulated slag, min. wt. 60,000 lbs		50		
Sash weights and balance weights for folding beds and lounges; also counterweights; min. wt. 60,000 lbs	1.00	50		
Seeds:				
Alfalfa, beet, clover, grass, hemp, mustard, rape, bird, timothy, millet, and canary, Kaffir corn seed, broom-corn seed, also wheat, corn, popcorn, oats, peas, and beans, flax, garden and sunflower, sorghum, min. wt. 30,000 lbs	1.45	1.20	1.50	1.25
Seed, flax, whole or ground, in packages, min. wt. 30,000 lbs	1.45	1.20	1.50	1.25
Sheep dip, liquid, min. wt. 30,000 lbs		65		.75
Pitch and tar, min. wt. 60,000 lbs	1.00	55		
Silica (pulverized), or silex, min. wt. 60,000 lbs		50		
Soda ash (may be shipped in sacks), soda crystals, caustic soda and hypo-sulphate, hypo-sulphite, nitrate (may be shipped in sacks), silicate (may be shipped in sacks), and sulphate of				

Rates in effect Jan. 25, 1910, in trans-continental freight bureau west-bound tariff No. 1-J—Continued.

Commodities. Rates in cents per 100 lbs.	From—			
	M. L. pier, via Gulf.		New York, all-rail.	
	L. C. L.	C. L.	L. C. L.	C. L.
6756 Soda, sulphide of sodium, and chloride of lime (may be shipped in casks), in kegs, boxes, or iron drums, min. wt. 40,000 lbs.	1.10	55	.....	.....
Staves and heading, rough or finished, and hoops, also wine tanks (K. D.) min. wt. 40,000 lbs	.....	75	.....	85
NOTE.—Will not apply on iron hoops.				
Stone, rough, sawed, hammered, chiseled or cut to dimension, not polished or lettered, and not including marble, min. wt. 40,000 lbs.	.....	55	.....	.....
Tile, roofing, min. wt. 30,000 lbs	.....	70	.....	80
Wall coating and wall finish, dry, n. o. s., in boxes, barrels or casks, min. wt. 40,000 lbs	.....	65	.....	75
Wire (fence), barbed, including staples, steel stay guards and stretchers, min. wt. 40,000 lbs	.....	70	.....	85
Wire, iron, plain, galvanized, tinned or coppered (including, if desired, steel stay guards), min. wt. 40,000 lbs.	.....	70	.....	85
Wire fencing, in rolls (including if desired, staples, steel stay guards, stretchers and wire fence gates), and coarse wire netting for fencing, in packages, min. wt. 30,000 lbs	.....	80	.....	90
Rails (steel), including mining rails, cross ties (steel), and saw mill track, min. wt. 60,000 lbs. except where length of rails requires two or more cars, in which case the minimum carload weight will be 40,000 lbs., for each car used	.....	$11.00 per ton 2,240 lbs.	.....	.....
Rail fastenings viz: angle bars, fish bars, rail joints, rail joint splice bars, base plates, tie plates, track spikes, track bolts, track nuts, nut washers, nut locks, rail braces, rail chairs and steel clip fastenings for steel ties, min. wt. 60,000 lbs.	.....	55	.....	67½
6757 Tin and terne plate (flat as from the mill, not further manufactured) in boxes, min. wt. 40,000 lbs	55	.....	.....	.....

No. of items, 77.
No. of commodities, 79.

6758 Cross-examination by Mr. SEVERANCE:

Q. You instanced a few commodities that you say cannot be moved by broken lines, water and rail lines. There are quite a number of those, are there not?

A. Yes, sir.

Q. Everything can be moved all rail?

A. Yes, sir.

Q. And some things cannot be moved by water and rail?

A. That is correct.

Q. But in the aggregate it is fair to say, isn't it, that the bulk of the traffic, that is, the west bound traffic, that goes out of New York, can go boat and rail?

A. I think that is a fair statement.

Q. And the items that cannot go both ways are the exception and not the rule?

A. Yes, they are an exception to the rule; they are in the minority.

Q. You stated that the Canadian Pacific movement at that differential tariff was not substantial. That is rather an indefinite expression. Have you looked up the figures to see the tonnage that went by that route?

A. I have not recently, but when the line was in operation we used to get copies of the manifests.

Q. And they carried according to the testimony in the case here, a good deal of traffic, and a good deal of traffic originating in Pittsburgh and other points west. You had no connection with that?

A. No. I referred to seaboard territory.

Q. You referred to traffic originating in the seaboard territory?

A. Yes.

Q. And whatever they may have taken west of the seaboard
6759 zone, you know nothing of?

A. No.

Q. The traffic originating in this zone was general in character, wasn't it?

A. Yes.

Q. That is, they took about the same classes of commodities; not in volume, but the same classes that the Morgan Line took?

A. Yes, I think so.

Q. You stated that from January 30, 1900, to January 30, 1907, the tonnage moving by the Sunset route to California points or the coast—which was it?

A. California.

Q. ——increased 70 per cent. Is that increase still continuing?

A. No. That increase ceased after the opening of the Tehuantepec route in January, 1907.

Q. That is what I wanted to know. The Tehuantepec route is a very successful competitor of the rail lines and the Sunset, isn't it?

A. Quite so.

Q. Has your traffic held up to what it was in 1907?

A. It has not.

Q. How much has it fallen off by reason of that competition?

A. I should assume that the tonnage had fallen off to about the same extent that it had increased during that period.

Q. It has fallen off about 70 per cent?

A. No.

Q. You mean per annum?

A. Yes.

Q. That is, it increased at an average of 10 per cent per annum?

A. Yes.

Q. And you think in the last few years it has fallen off about 10 per cent per annum?

A. I think so.

Q. And you attribute that to the American-Hawaiian competition, do you?

A. Partially; not entirely.

Q. What else do you attribute it to?

A. I attribute it to improved service all rail.

6760 Q. Those two things together?

A. Yes, sir.

Q. Do you have knowledge of the tonnage that is carried by the American-Hawaiian?

A. Only in a general way.

Q. Have you the same facility for getting that, that you had for getting the Canadian Pacific statistics years ago?

A. We don't get their original manifests, no.

Q. Well, it is part of your business, and that of every other man in your position, is it not, to endeavor in all proper ways to find out the amount of traffic that is being carried by his competitors?

A. It is.

Q. And that information goes to the extent of finding out the sources of that traffic, if possible, so that you may reach for it in future competition, isn't that true?

A. Yes, sir, that is correct.

Q. And that is one great advantage of an active commercial agency representing a transportation system, isn't it?

A. Yes, I think it is one of the values of an agency, to gather information for the management.

Q. Which the agency itself may use in soliciting business, among other things?

A. Yes. I should say the information was gathered chiefly for the benefit of the management.

Q. What does the management do with it?

A. I don't know.

Q. But you would think it was of some use to you, wouldn't you, to know what your competitors were doing?

A. Oh, it keeps you posted, yes.

Q. You spoke a while ago of the National Biscuit Company. Assuming that that was a corporation whose product could go over the Sunset route, if you found it was already going over some other line, it would be useful to you in trying to get it
6761 wouldn't it?

A. Yes.

Q. And you would go after that traffic?

A. I would certainly do so.

Q. And that would be the ordinary case with a soliciting agent?

A. Yes.

Q. Now, you stated that the duty of agents of other than initial lines was to maintain relations with connections. Isn't it the fact that the agents of lines other than initial lines personally solicit traffic from shippers?

A. I think you will find that I said the chief duty, or one of the most important duties.

Q. You didn't so state it. You didn't mention any other duty at all, in your testimony.

A. I think I described that duty in that way.

Q. Now I will ask you about some other duties. It is a fact, isn't it, that at places like New York City, Pittsburg, Chicago, Cincinnati,

and other large centers where traffic originates, the lines other than the initial lines have soliciting agents in the field who personally call on shippers and solicit their traffic? Isn't that true?

A. That is a fact.

Q. And they endeavor to get the routing over their lines, irrespective of what initial line may take it?

A. They endeavor to.

Q. The testimony in the record here shows that that was done with great success by some Southern Pacific agents, at times, in territory where they were not the initial line.

A. The success that was achieved might not be attributable to those agents. The tonnage that was shown might not be attributable to those agents.

6762 Q. No, but a great many witnesses, I will say for your information, testified that they did give business to these agents because of their solicitation. That was a compliment to your agency, you know.

A. You can't flatter me that way.

Q. That is one useful function of a commercial agency, isn't it?

A. I think the agents of a carrier in a foreign territory are expected to and do promote the relations between the shippers and their company.

Q. That is a very general and very lovely expression; but by it you mean they get business for their company, don't you?

A. They keep their relations with the shippers in such shape that the shippers will not object to shipping over their line.

Q. Don't they do more than that? Don't they get their friends among the big shippers to direct that shipments pass over their lines irrespective of what initial line may take it? Isn't that very often so, and don't you know it to be so?

A. Oh, to some extent.

Q. You know that is very largely so, don't you?

A. If I was representing a line in a foreign territory, I should spend most of my time in cultivating my connections.

Q. That is your view of it?

A. That is my view.

Q. But you know enough about the way these agents for all the western lines, for instance in New York here, work, to know that they are going to the big shippers all the time and seeking their business, don't you?

A. Yes, and I know that they spend a lot of time cultivating their connections.

Q. Certainly. They do both, don't they?

A. Yes.

6763 Q. And both of those things are their duties?

A. Yes, they are both their duties.

Q. You are speaking of cultivating connections. I suppose you mean by that what some of the witnesses have described as "swap-

ping business," don't you? If they have business originating out on their lines, coming here, they will give some of that business to lines reaching New York, and, in return for that, get the assistance of local lines in routing business west?

A. To some extent. But what I mean by cultivating their connections is this: that there is more of the results of good fellowship between the agents of carriers than between the agents of the carriers and the shippers. I can have a friend on a connecting line that will give me more business than half a dozen shippers.

Q. Now, take the Union Pacific agency here; and how many men have they usually employed as solicitors?

A. I don't know; I never counted them.

Q. Don't you know "to an extent" to use an expression that you seem to favor?

A. Oh, I should guess about the same number that we have.

Q. How many is that?

A. We have five in New York.

Q. And they have five soliciting agents?

A. I said I don't know that they have that many.

Q. But you think about that? That is your best guess?

A. Yes.

Q. Your relations with them are not sufficiently intimate so that you would know the number of them, is that it?

A. I don't keep track of the employees of my connections to that extent.

Q. And your relations with the Union Pacific are not at all
6764 intimate, in New York; you don't work together with them?

A. Oh, yes, we do.

Q. You do work together?

A. Yes, sir.

Q. Then you must be acquainted with some of their solicitors?

A. Yes, but I do business with the boss, you know.

Q. You only do business with the boss, you don't do anything with the understrapper. Years ago you were not the chief of the situation here yourself, were you?

A. No, sir.

Q. When Mr. Hawley was the head of the business here, of the Southern Pacific, you were working under him, weren't you?

A. Yes, sir.

Q. In those days were you willing to associate with the men who were not the bosses?

A. I am glad to associate with them now, but——

Q. What was your observation then? Were not those men soliciting business here for the Union Pacific at that time?

A. Yes.

Q. From shippers?

A. Yes.

Q. And didn't you, in endeavoring to route business by the Sunset route, meet the efforts of those men to route it by the Union Pacific route?

A. No doubt about that.

Q. Now, did you give, in answer to Mr. Dunne, the percentage of the movement to California, Oregon and Nevada points at the present time, as divided between the Sunset route and the rail lines?

A. To Colorado and Utah. There has been business to Colorado and Utah.

Q. I know, but I am speaking about the others.

A. No.

Q. You did in 1898 and 1900, as I understood it?

A. No, not as divided between our line and others.

6765 Q. Are you able to tell what percentage of the total movement to California from New York proper moved by the Sunset route, say in 1900, west bound?

A. Only by the statistics that are in evidence and Mr. Blye's reports.

Q. Mr. Blye's reports, you know, would not show that, because they covered all Pacific coast business.

A. Oh yes.

Q. I am speaking of the California business.

A. No.

Q. You remember Mr. Hawley's testimony in this case, that at times it ran as high at 85 per cent?

A. Yes, sir.

Q. Would that be in accordance with your recollection?

A. Yes, in the early days, just after the Sunset route was opened.

Q. And what would you say was about the percentage in 1900?

A. Of the California business?

Q. Yes.

A. I couldn't estimate it, that is, taking out all the other business.

Q. It was very large, wasn't it?

A. The Sunset's share?

Q. Yes—it was a large business?

A. Oh, yes, it was a substantial business.

Q. It was a very large business, wasn't it, amounting to a good many hundreds of thousands of dollars a year?

A. We have expressed it here in tons, in 1900.

Q. Not in cash?

A. Yes, in cash.

Q. Have you?

A. I think that is in.

Q. I didn't get it, if you did. What were the earnings of the Sunset route of the Southern Pacific on California business in 1900?

A. The west bound or east bound?

Q. West bound.

A. The earnings upon west bound California business represented $2,406,915.05.

6766 Q. East bound?

A. The earnings on the east bound represented $1,658,568.15.

Q. What does that add up?

A. The combined earnings, $4,065,483.20.

Q. That was in the year ending June 30, 1900?

A. Yes, sir.

Q. Where did you get those figures?

A. From the Auditor of the steamship lines.

Q. You have the figures on the through business here, have you?

A. Yes, sir. Furnished by the Auditor.

Q. The reason I ask you is because I have asked for some of those statistics and was told that the records were all burned up in San Francisco. But you have them here, so far as the Sunset traffic is concerned?

A. So far as the Sunset traffic is concerned; at least I got that from our Auditor here. I suppose he has it.

Q. Those are the figures given you by the Auditor?

A. Yes, figures furnished by the Auditor.

Q. Have you that for subsequent years?

A. No. I have for 1898——

Q. Well, let's have 1898, the earnings.

A. In the fiscal year ending June 30, 1898, the earnings on west bound California business were $1,752,411.90; and on east bound, $1,687,030.25.

Q. What does that total?

A. It makes a total of $3,439,442.15.

Q. That is 1898?

A. That is 1898.

Q. Since 1900 the development of the State of California has been very marked, hasn't it?

A. Yes, sir.

Q. And the amount of traffic moving between New York and California has increased enormously, hasn't it?

A. I think so.

6767 Q. Could you estimate the percentage of increase?

A. I could not. I have no means of doing so.

Q. But you know it is very much larger, don't you?

A. I have never seen any statistics of the total that would enable me to make a statement of that sort. I know in a general way of the development of California.

Q. Now, that east bound tonnage of California does not include any citrus fruit movement at all, does it?

A. No.

Q. That does not come by steamship?

A. No.

Q. But it includes the ordinary California products?
A. Yes, sir.
Q. Dried fruits, and sugar——
A. Dried fruits and canned goods.
Q. Canned goods, and everything of that sort?
A. Yes, sir.
Q. Does it include any vegetable movement, such as celery and that sort of thing?
A. No.
Q. You have no figures with you to show what that movement was, east or west bound, for the current year——
A. No, sir.
Q. Last year?
A. No.
Q. You stated that from the winter, I believe, of 1900, December 1900, down to 1902, the Panama road had its own ships on the Pacific side?
A. Yes, sir.
Q. That was up to the time they made the new contract with the Pacific Mail?
A. June 11, 1902.
Q. Didn't you find that during the time they operated their own ships, a much larger traffic moved by the Panama route than has since?

6768 A. I don't think so, unless it would be attributable to the ships that they used in charter having been capable of carrying certain classes of traffic that the Pacific Mail ships were not large enough to carry, or something of that sort.

Q. Didn't you observe, in handling business here, that a great deal more business went then by the Panama route than now?
A. That is a long time to remember, but I don't remember so, no sir.
Q. The statistics in evidence show that the Panama route now is only taking about half as much as it did then. Do you meet the Panama route in competition here?
A. We do.
Q. Do you find it pretty active?
A. Yes, rather active.
Q. What agencies do you meet with in competition? The Panama railroad agency?
A. Yes.
Q. I believe you stated that you yourself represented the Pacific Mail here?
A. The lines to the Orient.
Q. But when it comes to the solicitation of business to the Pacific coast by the Panama route, of which the Pacific Mail is a part, you don't represent the Pacific Mail?
A. I don't represent the line at all; I never did.

Q. You don't represent them in opposition to the Sunset route; that is right, isn't it?

A. I never represented the Isthmus line.

Q. Well, you say that they maintain an agency here. Does the Pacific Mail maintain an agency here for that business?

A. No.

Q. Have they ever done so?

A. Never to my knowledge.

Q. Always depend on the Panama people?

A. Yes.

Q. What is the usual time from here to San Francisco by the Sunset Route, assuming that you are running your trains on time?

A. Fifteen or sixteen days.

6769 Q. What is the time, according to the best of your information, by the Panama route?

A. I think the Panama time is about thirty-five days.

Q. It is nearer forty-five isn't it?

A. It may be.

Q. Isn't it about thirty days, on the other side of the Isthmus?

A. I don't think so. The running time, do you mean?

Q. I mean the time consumed by the Pacific Mail Steamship Company in getting traffic from Panama onto their boats and up to San Francisco. Isn't it about a month?

A. All the information we have on that subject is what we get from intercourse with people that use the line; and it has been my understanding from them that is was about thirty-five days.

Q. How much is it by the Tehuantepec route?

A. The Tehuantepec route make it in about twenty-five days.

Q. And you said yours was about sixteen or seventeen, I understand you?

A. Yes.

Q. What is the time, as far as you are advised, ordinarily taken by the rail lines from here to California?

A. About the same as the Sunset.

Q. Sixteen or seventeen days?

A. Yes.

Q. Do they make that time habitually?

A. They make better, very often. I am trying to give you an average.

Q. Do they make slower time a good deal of the time?

A. No, I don't think they do.

Q. And is the time about the same by all of the lines?

A. I think so. There are only two routes, you know, practically, into California: the Southern Pacific and the Santa Fe; and

6770 the time is about the same by the two delivering lines—the Southern Pacific and the Santa Fe.

Q. Up to about two months ago there were three delivering lines, weren't there?

A. Into California, yes. The San Pedro line.

Q. The San Pedro. And is the time into California about the same over the San Pedro as over the other lines?

A. The time into Southern California is about the same by the San Pedro and the Sunset route and the Sante Fe.

Q. And doesn't business also move over the Ogden route to Southern California?

A. It does, but I don't think they can make as good time; it is a pretty long line.

Q. Do you try to route business that way?

A. I route it via New Orleans.

Q. How is that?

A. I route it via the Sunset.

Q. You don't aid the Ogden route as against the Sunset?

A. No. I represent the Southern Pacific Company only; and if we can't get the Southern California business via the Sunset I usually try to get it via El Paso; in other words I have got to use a route that can compete with the Santa Fe.

Q. And the Sunset makes a little better time, does it, than the Ogden route by the Union Pacific into Southern California?

A. Into Los Angeles, yes.

Q. How much better?

A. I should think three or four days.

Q. Habitually?

A. Yes, I think so.

Q. How about the time into San Francisco, as between the Ogden route and the Santa Fe?

A. That is about the same.

Q. That is, the Santa Fe are able to come up north and meet the time of the straight line?

A. Yes.

Q. But your line is not able to go down south and meet the time of the Santa Fe?

A. By the Gulf?

6771 Q. No, your Ogden line.

A. No, can't do it; I think that stands to reason.

Q. You stated that in 1898 the Sunset route carried 37.31 per cent of the California and Nevada business. Was that from New York pier, or from seaboard territory?

A. Atlantic seaboard territory.

Q. That was all from the seaboard territory?

A. Yes, in fact, it was the entire takings of that line.

Q. You mean that 37.31 per cent was that percentage of the total business of the Sunset route?

A. Yes.

Q. That is, something over a third of the whole business of the Sunset route, found its destination in California, Nevada and Oregon?

A. Origin or destination, yes; east and west bound.

Q. California, Nevada and Oregon; does that include Oregon, or only California and Nevada?

A. No, it only includes California and Nevada.

Q. And in 1900 it was 34.79 per cent?

A. Yes.

Q. And that was from the whole seaboard zone?

A. That is correct.

Q. You always absorb the rail rate into the pier here, don't you, on that through business of this zone?

A. Under the method of doing business at that time, that is what we had to do; we had to absorb the rate—what we call the local rates. Under the method of published tariffs today, they are published in the tariffs. It is on a percentage basis.

Q. The rate is just the same from all parts of this seaboard zone to California points via the Sunset route as it is all rail, with these exceptions?

6772 A. Generally speaking that is true, yes; from the actual point of origin to California.

Q. Whether you absorb it out of the rate, or whether you call it a division with the originating line, does not make any difference so far as the total rate is concerned?

A. No. That is the way we use the term "absorb" over here. It is absorbing somebody's local.

Q. That is what I supposed you still did. When did you stop doing that?

A. When we had to issue joint tariffs, under the regulations of the Hepburn law.

Q. But it amounts to the same thing so far as dollars and cents are concerned?

A. So far as integrity of the through rate is concerned.

Q. Now, you stated that of the business to Colorado and Utah, originating east of the Missouri River points, east of the Missouri River, there moved from the Atlantic seaboard in 1900 all-rail, twenty-two per cent?

A. Yes, sir.

Q. No, I don't mean that: not all-rail: via the Sunset route.

A. No, that 22 per cent represents the entire percentage of the Colorado-Utah traffic which originates at Atlantic seaboard territory. The rest of it originates west of it.

Q. 78 per cent originates west of Buffalo and Pittsburgh and up to the Missouri River?

A. Yes, sir.

Q. And 22 per cent from this territory?

A. Yes.

Q. Now, as I understand you, on the west bound business into Colorado, in 1900 there went all-rail 57 per cent; south Atlantic ports 7 per cent; and the Gulf routes 36 per cent?

A. Yes, sir; that is correct.

Q. You stated that you cannot give those percentages for Utah for 1900. Why can't you?

A. Haven't got them.

6773 Q. Why not?

A. They are not on our records.

Q. Why didn't you keep a record of them as well as of the Colorado business?

A. They were not compiled; I think I have stated in my testimony that the Utah tonnage was not compiled in 1900. There was no bureau to compile it.

Q. You have your own records as to what business moved into Utah, but you haven't the comparative records, is that what you mean?

A. That is correct, yes. These are actual representations of our own Auditor, of our own business.

Q. But the business moving by South Atlantic ports and by all-rail to Utah from the seaboard territory was not compiled as to all lines by a bureau until later than that time?

A. Not by a bureau.

Mr. DUNNE. That is, as to Utah.

WITNESS. As to Utah; that is, the division between roads as to Utah.

Q. And that is the reason you cannot give it?

A. Yes.

Q. Now, in 1908 you stated that into Colorado the all-rail movement had decreased 16 per cent?

Mr. DUNNE. To 16 per cent.

Mr. SEVERANCE. No, it had decreased 16; from 57 to 41.

WITNESS. That is right, from 57 to 41.

Q. How was it as to the actual movement? Did you give that?

A. Tons, do you mean?

Q. I mean tonnage and revenue?

A. Yes, we have given that. We have given you that in 1898 and 1900.

Q. What I want to get at is this: How does the revenue that you get from business by the Gulf route in 1908 compare with the

6774 revenue that you got in 1900? How does your tonnage compare? not your percentage with other lines, but your actual business?

A. It is considerably less.

Q. And there is more movement by the south Atlantic ports and the Union Pacific and other lines?

A. There is more movement by the south Atlantic port routes.

Q. And the actual movement has decreased, as well as the percentage?

A. Yes. The Gulf route tonnage has decreased; not only our actual movement by the Morgan Line, but the movement by the Mallory Line; that is to say, the entire movement by the Gulf route has materially decreased.

Mr. DUNNE. I think you said the Mallory Line decreased more than you did, proportionately?

A. The Mallory Line decreased more than we did, yes.

Q. Have you got the figures on the Mallory Line? Have you the percentages on the Mallory Line? Let's have them.

A. I can give you the Mallory Line; we have the Mallory Line tonnage in 1902——

Q. Take the same years that you had; 1900 and 1908.

A. Nothing preceding 1902.

Q. Have you got 1908?

A. 1902 and 1908.

Q. What are they?

A. The Mallory Line tonnage in 1902 consisted, to Colorado, of 7812 tons, and in 1908 2412 tons; to Utah, in 1902 4884 tons, and in 1908 1374 tons.

Q. How does the Mallory Line traffic reach Colorado and Utah?

A. They operate into Colorado over the Santa Fe line, from Galveston through to Colorado; over the Missouri, Kansas & Texas to Fort Worth, in connection with the Colorado Southern, and in connection with the Rock Island; via the International Great
6775 Northern from Galveston to Fort Worth in connection with the Colorado Southern and Rock Island. To Utah their traffic naturally follows either the Colorado Midland and the Rio Grande Western or the Denver & Rio Grande either through Colorado Springs or Pueblo.

Q. Who controls the Mallory Line? Is that an independent line?

A. Absolutely.

Q. It is not affiliated with any railroad?

A. No. It is now a constituent part of the Atlantic, Gulf & West Indies Steamship Company.

Q. But it interchanges business with all rail lines except your own line?

A. At Galveston. It interchanges with ourselves.

Q. But it is an independent line?

A. Yes.

Q. And is not affiliated with any through line to the Pacific coast?

A. That is right.

Q. Do they take Pacific coast business in connection with the Sante Fe?

A. Yes, sir.

Q. Do they move any considerable quantity that way?

A. No, they do not—have not of late years. At the time Blye's statistics were made, you will find there was perhaps as high as two or three per cent by the Mallory Line.

Q. And it always has been very small, hasn't it?

A. Yes.

Q. They really have not been much of a factor in that business?

Mr. DUNNE. You mean California business?

A. California business. I might say there, that the traffic upon which they would chiefly engage in California would be commodities where the same rates were made, of course, from the Mallory Line pier as from the Morgan Line pier, in all cases.

Q. Mr. Spence, I can't understand about your figures on this Morgan Line business to Utah. Look back at the figures there.

6776 For 1898 the revenue, you see, west bound, on Morgan Line business to Utah was $25,123.70, and east bound $1,393.65?

A. That is right.

Q. What is the total?

A. $26,517.35.

Q. That is for the entire year ending June 30th, 1898?

A. Yes, sir.

Q. Now, I understand you to say that for the year ending June 30th, 1900, your total earnings on Colorado business were $56,314.17, east and west bound together. I am speaking of Colorado.

A. The first was Utah.

Q. The first was Utah, and the present one is Colorado.

A. Now you want 1900, Colorado?

Q. That is the way you gave them to me—didn't you?

A. No, you used Utah there in 1898, and you are using Colorado in 1900.

Q. Well, that is the way you gave them in the record; that is the way you testified. I put them down as you were going on. Well, we will clean up Utah, first. Your total revenue was how much?

A. In Utah, $26,517.35.

Q. What is your business now as compared with what it was then into Utah. You stated it had fallen off.

A. It is not as much.

Q. How much less is it in revenue?

A. I don't know.

Q. What percentage less is it?

A. I couldn't tell you.

Q. You say it has distinctly fallen off?

A. Yes.

Q. Now, Mr. Stebbins made up for us Complainant's exhibit 120 C which showed the west bound and east bound traffic for October 1906, and the west bound and east bound traffic for April 1907 into

6777 Colorado common points and Utah common points. His figures show that the revenue to Utah common points for October, 1906, alone, was $7,033.43, and to Utah common points for April 1907, $8,888.32, or an average of about $8,000 a month.

A. What revenue?

Q. That is Southern Pacific revenue.

A. Southern Pacific Sunset revenue?

Q. He says "The revenue shown for the Southern Pacific Company includes revenue accruing to Southern Pacific Company's Atlantic steamship lines between New York and Galveston, and revenue accruing to rail lines in which the Southern Pacific Company has an interest, viz: The Galveston, Harrisburg & San Antonio Railway Company, and Houston & Texas Central Railroad Company." Now, he shows a revenue, in the fall of 1906 and the spring of 1907, averaging about $8,000 a month, which would be a hundred thousand dollars a year. And you say that the revenue in 1898 was only $26,000, for the entire year, and it has fallen off since. How do you account for that? How do you reconcile those statements?

A. I didn't say it had fallen off in 1906.

Q. How was it in 1906?

A. I haven't got it. I couldn't tell you. I didn't say it had fallen off at that time; I said it had fallen off now.

Q. Can't you give us the revenue each year?

A. We have not compiled anything here, but taking two years previous to the purchase.

Q. You can do that, can't you?

A. I think so.

Q. I would like to have it done, because I would like to see those figures for each year, on both Colorado and Utah, from 1898, the year you selected, down to the present time. Now take the Colorado
6778 business. You stated that in 1898 the Colorado business amounted to $56,314.17?

A. Correct.

Q. Mr. Stebbins' figures show that for the month of October, 1906, the Southern Pacific Company's revenue on Colorado common points business was $15,019.54, and for the month of April, 1907, $10,416.53, or an average of about $12,500, or $150,000 a year, which is three times the business for 1898.

A. Evidently it had grown.

Q. You said it had fallen off?

A. I said it had fallen off now.

Q. When did this awful slump begin?

A. In the last two or three years.

Q. That is to say, in 1906 and 1907, three years ago, you were doing, according to these figures of Mr. Stebbins, compared with yours, about three times the business into Colorado and Utah over the Southern Pacific Gulf route, that you were in 1898; into Colorado it was just about three times as much—as $56,000 is to $150,000; and on the Utah business it was about $100,000 as compared with $26,000—which would be nearly four times as much. Now, instead of that, you say there has been this awful slump in the last two or three years, so that you are not doing as much as you were ten years ago?

A. That is correct.

Q. I would like to have you make up the figures year by year, and let us see how that was. How do you account for it? I don't mean how do you account for this discrepancy in the figures, but how do you account for this slump?

A. The material improvement in the service of the Alantic
6779 port routes; it has resulted in the division of the traffic between the all-rail and Atlantic ports and Gulf—if you will look at them. In the earliest division you have about 7 per cent by Atlantic port routes, and Gulf something like 36; and in the latest you have 43 by the Atlantic port routes and 16 Gulf.

Q. From which south Atlantic ports has the service increased or been benefited or made better?

A. I speak of through service. I don't know anything about the number of steamers.

Q. Through what ports?

A. Through Norfolk, Newport News and Savannah.

Q. How does the rail haul from Newport News to Utah compare with the rail haul from Galveston in mileage?

A. I can figure it for you, if you want that. It is about 325 miles to Norfolk——

Q. No, I am speaking from Norfolk to Utah points. What is the mileage, the rail haul?

A. As compared with the haul from Galveston?

Q. Yes, compared with the haul from Galveston to Utah points.

A. (Referring to memorandum.) From the Virginia ports to Salt Lake City is about 2742 miles.

Q. How far is it from Galveston to Salt Lake City? At present it is 1031 miles from Fort Worth; I think it is 1031.

A. It is about 1774 miles.

Q. Then it is about 1100 miles farther all-rail—or a thousand miles?

A. It is about a thousand miles farther from Norfolk to Salt Lake than from Galveston to Salt Lake.

Q. By rail?

A. Yes.

Q. How long does it take you to run your ships from here to Galveston?

A. Six days.

6780 Q. That is the regular time?

A. The best time.

Q. What is the best time to Utah, ordinarily? How long does it take you to lay down traffic to Utah common points? Suppose you take it over your own road, the Union Pacific from Denver, so the only foreign line is from Fort Worth to Denver.

A. We have made as good as 16 or 17 days.

Q. What do they make through the south Atlantic ports?

A. They make, through south Atlantic ports, as good as 12 or 13.

Q. You stated that the time to California, all-rail, is how much from here?

A. About sixteen days.

Q. How long does it take to move the traffic from here to Norfolk, and load it and unload it on the ship?

A. The running time is 20 hours. It goes out of there the next day, I understand. The actual running time to Norfolk is 20 hours.

Q. Then the actual time through must be about the same, isn't it?

A. By Atlantic ports and Gulf?

Q. Yes.

A. By no means.

Q. They can make better time?

A. Very much.

Q. Even though they had a thousand miles more rail haul?

A. Yes.

Q. What is the mileage from Savannah to Utah by rail?

A. About 2479 miles.

Q. How long does it take the ships to move stuff from New York to Savannah and load it on the trains?

A. I think the time to Savannah is about 48 hours.

Q. Do they make quicker time by Savannah to Utah than you can make by the Gulf?

A. Yes.

Q. How much quicker?

6781 A. They make about as good time as the Old Dominion.

Q. They make 14 or 16 days do they?

A. Yes.

Q. Now, the business that moves through the Old Dominion line to Norfolk and the business that moves by Savannah, very largely moves to Colorado points over the Union Pacific, doesn't it—Kansas City or Omaha?

A. I do not believe that is so with respect to both routes.

Q. It is so as to Savannah, isn't it?

A. I think that is the way the Savannah business is worked today——

Q. How does the other business go?

A. —but it was not at that time.

Q. How is it now, as to Norfolk business?

A. As to the routes now?

Q. Yes.

A. There is an active route now by the Old Dominion and the Seaboard Air Line through Birmingham and the Frisco and Rock Island.

Q. To Denver?

A. To Colorado, yes.

Q. And then the Union Pacific or the Rio Grande?

A. Yes.

Q. What is the line called the Kanawha Despatch? Where does that run?

A. That is the Chesapeake & Ohio, operating from Newport News, Virginia. It is one of the Old Dominion fast freight lines.

Q. Does that still operate in connection with the Union Pacific?

A. I don't know how they send their business in.

Q. It used to be their preferred connection, according to the testimony in Utah?

A. I don't know how the Kanawha Despatch worked their traffic. It would take a Union Pacific man to tell you that.

Q. As I understand your testimony, in 1900 your earnings, east and west bound, on Colorado business alone, amounted to $202,-173.15; is that right?

A. That is correct.

Q. That was a large increase over 1898, wasn't it?

A. Yes.

Q. From $56,000 to $202,000?

A. Yes.

Q. How long will it take your Auditor to make up those figures down to date, year by year?

A. I couldn't tell you. It took him some time to make these up.

Q. I would like to have that done, as a part of your testimony.

A. Tonnage to Colorado and Utah?

6782 Statement headed "Southern Pacific Company, Atlantic Steamship Lines, Statement of Tonnage and Revenue accruing to System Lines by Territories, as shown below, for Fiscal Year ending June 30, 1898," marked Defendants' Exhibit 58 (Spence); and paper headed "Southern Pacific Company, Atlantic Steamship Lines, Statement of Tonnage and Revenue accruing to System Lines by Territories, as shown below, for fiscal year ending June 30, 1900" marked Defendants' Exhibit 59 (Spence).

Mr. DUNNE. I offer in evidence Defendant's Exhibit 58 and Defendants' Exhibit 59.

Mr. SEVERANCE. I will reserve an objection that they are incompetent, and will look them over.

Defendants' Exhibit 58 is as follows:

6783

DEFENDANTS' EXHIBIT 58.

(Spence.)

SOUTHERN PACIFIC COMPANY.

ATLANTIC STEAMSHIP LINES.

Statement of tonnage and revenue accruing to System lines by territories as shown below for fiscal year ending June 30, 1898.

	Tons.	Per cent.	Ship revenue.	Rail revenue.	Total system revenue.	Per cent.
NORTH BOUND.						
Mississippi						
La. & Cen. Am	51,837	19.04	221,192.23	7,271.20	228,463.43	08.30
Texas	88,496	32.50	272,833.14	224,055.87	496,889.01	18.05
Ark. & Okla	531	00.19	2,097.15	4,017.80	6,114.95	00.22
Mexico	1,048	00.38	2,908.47	4,292.00	7,200.47	00.26
N. M. & Ariz	19,492	07.16	70,483.94	219,904.16	290,388.10	10.55
Missouri River territory						
Total	161,404	59.27	569,514.93	459,541.03	1,029,055.96	37.38
California	108,039	39.67	295,230.19	1,391,800.06	1,687,030.25	61.29
Colorado	1,384	00.51	5,437.85	4,143.08	9,580.93	00.35
Utah	97	00.04	781.80	611.85	1,393.65	00.05
Portland	1,260	00.46	4,012.58	18,916.47	22,929.05	00.84
China & Japan	145	00.05	442.57	2,086.41	2,528.98	00.09
Grand total	272,329	100.00	875,419.92	1,877,098.90	2,752,518.82	100.00
SOUTH BOUND.						
Mississippi	1,600	00.67	11,915.45		11,915.45	00.40
La. & Cen. Am	59,574	23.64	375,805.64	33,396.32	409,290.96	13.64
Texas	80,606	31.98	280,799.61	288,566.92	569,366.53	18.97
Ark. & Okla	175	00.07	792.33	80.59	872.92	00.03
Mexico	9,294	03.69	32,973.43	20,880.42	53,853.85	01.79
N. M. & Ariz	1,781	00.71	15,759.51	54,800.90	70,560.41	02.35
Missouri River territory	1,218	00.48	3,247.05	68.48	3,315.53	00.11
Total	154,338	61.24	721,382.02	397,793.63	1,119,175.65	37.29
California	87,597	34.76	306,697.89	1,445,714.01	1,752,411.90	58.38
Colorado	4,525	01.80	27,483.47	19,249.77	46,733.24	01.56
Utah	1,665	00.66	13,146.61	11,976.89	25,123.70	00.84
Portland	3,483	01.38	8,534.39	40,233.58	48,767.97	01.62
China and Japan	412	00.16	1,626.92	7,669.76	9,296.68	00.31
Grand total	252,030	100.00	1,078,871.50	1,922,637.64	3,001,509.14	100.00
TOTAL.						
Mississippi	1,600	00.32	11,915.45		11,915.45	00.21
La. & Cen. Am	111,411	21.25	597,046.87	40,667.52	637,754.39	11.08
Texas	169,102	32.25	553,632.75	512,622.79	1,066,255.54	18.53
Ark. & Okla	706	00.13	2,889.48	4,098.39	6,987.87	00.12
Mexico	10,342	01.97	35,881.90	25,172.42	61,054.32	01.06
N. M. & Ariz	21,273	04.06	86,243.45	274,705.06	360,948.51	06.27
Missouri River territory	1,218	00.23	3,247.05	68.48	3,315.53	00.06
Total	315,742	60.21	1,290,896.95	857,334.66	2,148,231.61	37.33
California	195,636	37.31	601,928.08	2,837,514.07	3,439,442.15	59.77
Colorado	5,909	01.13	32,921.32	23,392.85	56,314.17	00.98
Utah	1,762	00.34	13,928.61	12,588.74	26,517.35	00.46
Portland	4,743	00.90	12,546.97	59,150.05	71,697.02	01.25
China & Japan	557	00.11	2,069.49	9,756.17	11,825.66	00.21
Grand total	524,349	100.00	1,954,291.42	3,799,736.54	5,754,027.96	100.00

AUDITOR'S OFFICE.
New York, N. Y., Jan. 12 h, 1910.

(Sgd) B. G. BARTHOLOMEW,
Auditor.

6784 DEFENDANTS' EXHIBIT 59.

Defendants' Exhibit 59 is as follows:

(Spence.)

SOUTHERN PACIFIC COMPANY.

ATLANTIC STEAMSHIP LINES.

Statement of tonnage and revenue accruing to system lines by territories as shown below for fiscal year ending June 30th, 1909.

	Tons.	%	Ship revenue.	Rail revenue.	Total system revenue.	%
NORTH BOUND.						
Mississippi						
La. & Cen. Am	85,431	27.85	367,436.83	61,971.67	429,408.50	14.01
Texas	67,968	22.15	299,827.57	158,117.65	457,945.22	14.94
Ark. & Okla	26	00.01	120.08	88.48	208.56	00.01
Mexico	6,151	02.00	18,894.82	10,102.98	28,997.80	00.95
N. M. & Ariz	29,428	09.59	90,817.84	321,689.32	412,507.16	13.46
Missouri River territory						
Total	189,004	61.60	777,097.14	551,970.10	1,329,067.24	43.37
California	108,655	35.42	230,249.42	1,308,318.73	1,658,568.15	54.11
Colorado	6,938	02.26	20,411.08	15,506.81	35,917.89	01.17
Utah	189	00.06	269.59	210.98	480.57	00.02
Portland	2,026	00.66	7,096.78	33,456.29	40,553.07	01.32
China & Japan	7		36.46	171.86	208.32	00.01
Grand total	306,819	100.00	1,095,160.47	1,969,634.77	3,064,795.24	100.00
SOUTH BOUND.						
Mississippi	3,047	01.08	16,534.38		16,534.38	00.38
La. & Cen. Am	74,588	26.46	510,565.62	12,180.11	522,745.73	12.21
Texas	67,569	23.97	498,072.70	325,279.30	823,352.00	19.24
Ark. & Okla	508	00.18	2,806.77	1,481.18	4,287.95	00.10
Mexico	16,984	06.03	65,870.35	44,418.07	110,688.42	02.60
N. M. & Ariz	3,473	01.23	42,348.88	102,975.04	145,323.92	03.39
Missouri River territory	774	00.27	2,344.80	1,604.18	3,948.98	00.09
Total	166,943	59.22	1,138,543.50	488,337.88	1,625,881.38	38.01
California	96,172	34.12	421,210.13	1,985,704.92	2,406,915.05	56.23
Colorado	14,673	05.21	94,391.13	71,864.13	166,255.26	03.88
Utah	1,632	00.58	13,093.22	11,279.69	24,372.91	00.57
Portland	1,372	00.48	5,447.81	25,682.53	31,130.34	00.73
China & Japan	1,098	00.39	4,338.24	20,451.68	24,789.92	00.58
Grand total	281,890	100.00	1,677,024.03	2,603,320.83	4,280,344.86	100.00
TOTAL.						
Mississippi	3,047	00.52	16,534.38		16,534.38	00.23
La. & Cen. Am	160,019	27.18	878,002.45	74,151.78	952,154.23	12.96
Texas	135,537	23.02	797,900.27	483,396.95	1,281,297.22	17.45
Ark. & Okla	534	00.09	2,926.85	1,569.66	4,496.51	00.06
Mexico	23,135	03.93	84,765.17	54,921.05	139,686.22	01.90
N. M. & Ariz	32,901	05.59	133,166.72	424,664.36	557,831.08	07.59
Missouri River territory	774	00.13	2,344.80	1,604.18	3,948.98	00.05
Total	355,947	60.46	1,915,640.64	1,040,307.98	2,955,948.62	40.24
California	204,827	34.79	711,459.55	3,354,023.65	4,065,483.20	55.35
Colorado	21,611	03.67	114,802.21	87,370.94	202,173.15	02.75
Utah	1,812	00.31	13,362.81	11,490.67	24,853.46	00.34
Portland	3,398	00.58	12,544.59	59,138.82	71,683.41	00.98
China & Japan	1,105	00.19	4,374.70	20,623.54	24,998.24	00.34
Grand total	588,700	100.00	2,772,184.50	4,572,955.60	7,345,140.10	100.00

AUDITOR'S OFFICE,
New York, N. Y., Jan. 12th, 1910.

(Sgd) B. G. BARTHOLOMEW,
Auditor.

6785 Q. You gave some statistics on business to Portland. Did you get them off of the same exhibit?

A. Yes, sir.

Q. For the year ending June 30, 1900, you stated that the total tonnage east and westbound by the Sunset Route to Portland, Oregon, was 3,398 tons; is that right?

A. East and west bound.

Q. And the earnings on that $71,683.41?

A. Correct.

Q. Does that statement include business from the whole Atlantic seaboard west?

A. Yes, sir.

Q. Westbound?

A. Yes; the entire statement.

Q. Does it include business eastbound from any point outside of Portland in Oregon?

A. No.

Q. It does not include the business picked up in the Willamette Valley, the hop business, in competition with the O. R. & N. boat line?

A. It does not include anything but what went into or came out of Portland.

Q. Portland proper?

A. Yes.

Q. The evidence shows, Mr. Spence, that there is a very large traffic in hops coming out of the Willamette Valley. That is a great hop region out there, isn't it?

A. Yes.

Q. And they move to Europe and they move to the Atlantic seaboard and a large amount of that is moved by the Sunset Route. Now those hops, originating at a point on the Sunset line, the first eighty miles up the valley, where it is competitive with the O. R. & N. boatline, are not included in these figures?

A. There is nothing included in those figures excepting what finds destination or origin in Portland—Portland traffic.

Q. That statement is absolutely worthless for the purpose of determining the competitive business done out of that region

6786 by the Sunset Route, isn't it?

A. I don't think so.

Q. Well, isn't it?

A. Not in my opinion.

Q. What kind of business is there that originates in Portland, eastbound, that is included there?

A. Why, I think that the hops went into Portland; I think that the dried fruit went into Portland, went in there for process, and all that is in here.

Q. Do you mean to say the hops were taken into Portland on your line and then shipped back over your line?

A. I so understand.

Q. Do you understand that to be true?

A. We have hops in the Portland traffic; I know that to be true.

Q. But don't you know there is enormous business in hops originating up in the Willamette Valley, at those towns along the river, like Salem and Albany and Corvallis and those places, where the hops are loaded on Southern Pacific cars and shipped by the Sunset Route to New York? Now that is true, isn't it?

A. That there was a large volume of that, no.

Q. Do you know anything about it?

A. No, not that there was a large volume.

Q. Well, do you know anything about it, whether it is large or small?

A. No.

Q. That is what I thought.

A. I know it was small; I know our share of it was small.

Q. Well, how much was it? You say it is small. It is easy to say "small", that is characterizing it, but how much does it amount to in tons?

A. I don't know.

Q. In carloads?

A. I don't know.

6787 Q. I thought you didn't. Now, that is not included in this table, is it?

A. Not if it didn't go into Portland.

Q. If there was any other of the local traffic there that didn't come into Portland proper—fruit, or anything of that sort, it would not be included here?

A. No.

Q. Does this include salmon that are taken from the Columbia River packing houses——

A. Yes.

Q. —— and brought into Portland?

A. Yes.

Q. Are you sure of that?

A. The freight was from Portland so far as we were concerned.

Q. You are sure that is all included?

A. Yes.

Q. Does it include the traffic that was routed from New York to those Columbia River towns, down the river, passing through Portland, where it was competitive with the O. R. & N. boats on the river?

A. We never had any.

Q. You didn't?

A. No.

Q. You never heard of that?

A. I don't think we ever had any by Sunset.

Q. You never did?

A. No.

Q. Well, the testimony shows you had it.

A. I suppose somebody says so.

Mr. DUNNE. Well, your testimony doesn't show it.

WITNESS. I said we had none by Sunset.

Q. From what sources were these figures made up?

A. The auditor's statements.

Q. What did he have as an original source of information in making up these curious figures?

6788 A. As an original source of information?

Q. Yes; what did he make them up from?

A. He made them up from his records, I presume.

Q. What sort of records?

A. I don't quite understand your question.

Q. I know, but you have got a lot of figures on a piece of paper there.

A. The statement is signed by the auditor.

Q. Where did he get them?

A. The auditor will have to tell you that.

Q. So, you know nothing as to the correctness of the figures and you know nothing about what traffic is included in the figures?

A. Yes, I do.

Q. That is, you say it is Portland?

A. Yes.

Q. But whether that means something originating outside of Portland or whether it means Portland proper, originating there, you don't know, do you?

A. I do know. I told you that it covered only traffic that came out of or went into Portland.

Q. And way-billed there?

A. Yes.

Q. You mean way-billed in Portland?

A. Yes.

Q. If it was waybilled at a country station it would not be included, would it, although it might have moved in and out of Portland as a matter of switching; it would not be included, would it?

A. Well, what sort of——

Q. For instance, you have got two lines there. For your information I will tell you that you have a line on each side of the river. Traffic is switched from one line over to the other.

A. Yes.

Q. One line that is not a through line reaches certain places

6789 in the valley there?

A. Yes.

Q. If freight was waybilled from the station in the valley on that other line which is not the through line and then the cars were switched around through, although they might go through the Portland yards, that would not be included here, would it?

A. I believe it would.

Q. What makes you think so? You say you don't know anything about it.

A. I think it appears as Portland traffic.

Q. How do you know?

A. I called for a statement of the Portland traffic.

Q. I know, but do you know what that Portland traffic consists of?

A. It consists of everything that went in and out of Portland.

Q. That is, you mean where the waybills showed it went in and out of Portland, don't you?

A. Yes.

Q. So that if it was waybilled at the stations in the valley, competitive stations with the O. R. & N. boats, it would not be shown, would it, although the traffic might actually have moved through Portland?

A. I don't think there is any traffic so waybilled. If traffic moved through Portland it was not so waybilled.

Q. It might have been switched from one of those tracks to the other. Have you ever been out to Portland?

A. Yes.

Q. Did you ever see traffic handled there?

A. Oh, yes.

Q. But this is a fact, though, to sum it up, isn't it, Mr. Spence, that as to whether those figures are correct you know nothing of your own knowledge except as you get this from the auditor?

A. No, of course.

6790 Q. You don't know whether those statements include business that originates solely in Portland or whether it includes business that was competitive with the O. R. & N. at country stations up the valley; in fact, you don't think it does include that, do you?

A. It is represented by me to include all business into and out of Portland, and nothing more, and nothing less.

Q. And not business up the Willamette Valley competitive with the O. R. & N. boats?

A. If there was any such business, I don't think it is in there.

Q. There is a great deal of evidence that there was a lot of that business?

A. But it is not my evidence.

Q. But you don't know anything about it, whether there was or not?

A. No.

Q. All the testimony that you have given with reference to statistics, figures, and earnings and tonnage and all that, is something you know nothing whatever about of your own knowledge? You simply read off the figures that are given you by your auditor, don't you?

A. The figures that are submitted in the auditor's statement.

Q. I say you know nothing of it personally; you are simply reading figures that are given you by the auditor?

A. That is correct.

Q. And as to the source from which he got his information or how he made them up, or whether he obeyed your orders, or anything of that kind, you don't know anything about it, do you?

A. Oh, he would have to testify to that.

Mr. SEVERANCE. I move to strike out all of the testimony
6791 of Mr. Spence in so far as it covers statements of tonnage or of earnings or movements of traffic, either in percentages or actually, on the ground that it appears by his testimony that he has no knowledge on the subject except what has been obtained from some one else, and that he is not advised as to the sources from which that other person obtained it.

Q. Now, this statement, in so far as it purports to show anything on Portland business, does not include business moving from Portland all rail to territory west of the Atlantic seaboard zone, does it?

A. No.

Q. Take Cincinnati, for instance. It appears by the testimony that hops moved to Cincinnati and St. Louis, and that is not included?

A. No.

Q. And business moving from points west of the seaboard zone to Portland, if any, would not be included?

A. No.

Q. And if business moved by way of El Paso as well as New Orleans from that country, it would not be included?

A. Not unless it moved via New York.

Q. Then, the figures you are giving include only such business as moved to Portland steamer or rail from New York?

A. That is correct.

Q. Not all rail from any territory?

A. No.

Q. Or all rail from Portland east?

A. No.

Q. Mr. Spence, you stated in answer to Mr. Dunne certain territory reached by the Sunset Route which you said the Union Pacific did not reach. Will you restate that, please.

A. I stated that the Union Pacific never engaged in traffic
6792 between Atlantic seaboard territory and Mississippi, the east coast of Central America, Louisiana, Arkansas, Texas, Oklahoma, Mexico, New Mexico, and Arizona.

Q. As I understand it, the territory you have just defined is territory into which the Union Pacific did not carry traffic from the Atlantic seaboard territory?

A. That is correct.

Q. Or to the Atlantic seaboard territory, originating there?

A. Yes.

Q. There was nothing that came up from New Mexico to Denver and brought east over the Union Pacific?

A. No.

Q. Nothing whatever?

A. No.

Q. At any time?

A. No.

Q. And you did not intend by that answer, of course, to cover any business originating on the Pacific coast and moving eastwardly to

some of these places you have named. The Union Pacific did engage in that, didn't it?

A. Yes.

Q. That is to say, on business originating on the Pacific coast and moving to Texas points or Louisiana and Mississippi, down there, the Union Pacific was in that traffic, wasn't it, eastbound?

A. It might have been; I did not testify that it was not.

Q. You did not intend to so testify?

A. No.

Q. It was merely business originating in the seaboard territory destined to those states——

A. Yes.

Q. Or vice versa?

A. Yes.

Q. That is what I understood, but I wanted to be sure because I thought it was left a little ambiguous.

6793 You stated among the disadvantages of a boat line that it could not deliver goods at towns reached by rail lines and get a reasonable share of the business because the rail lines would have industry tracks. Do you handle traffic from here to New Orleans by boat?

A. Yes, sir.

Q. How do your takings for New Orleans compare with the all-rail takings from here?

A. We take the great majority of the traffic.

Q. How many industry tracks have you got around there?

A. We haven't any for the steamship line.

Q. You haven't? Well, that is not quite consistent with your opinion as to other steamship lines, is it?

A. It is, if you correctly quote my testimony.

Q. What is your testimony? I don't intend to misquote it.

A. I said on equality of rates.

Q. On equality of rates. You have a differential rate to New Orl[illegible]?

A. Yes, sir, a very large one.

Q. Traffic moving eastbound to New York City, the Sunset Route carries a large amount of it, doesn't it?

A. Yes.

Q. At equality of rates with the rail lines, doesn't it?

A. Yes.

Q. How do you make that fact consistent with your statement?

A. By the lighterage plant, whereby we make deliveries around New York harbor, the same as the trunk lines.

Q. Do you go along the industries around New York?

A. Why, the industries in New York must be all deliverable by lighter.

Q. They can all be delivered by lighters, can they?

A. Yes.

6794 Q. How about business to San Francisco?

A. To San Francisco?

Q. Couldn't the Portland line put in a lighterage plant there?

A. At San Francisco?

Q. Yes, or are they differently located there?

A. The conditions are different there. The rail delivery in San Francisco would be an actual track delivery. There is nobody capable of making track delivery in New York except one line. All the all-rail freight that is secured against the Sunset at an equality of rates is deliverable by lighter.

Q. Of course your testimony with reference to this disability was brought out by my friend Mr. Dunne with reference to the Portland route, I assume.

A. Yes.

Q. Now, you have been at San Francisco, haven't you?

A. Yes, sir.

Q. And you know that is a large wholesaling town?

A. Yes.

Q. And you know there are a great many wholesale houses there that have not track connections, don't you?

A. Yes.

Q. Then, what disability would a boat line have there as compared with a rail line in delivering to those wholesale houses or taking from them?

A. Because of those track connections you speak of.

Q. But I say there are a great many wholesale houses in San Francisco that have no track connections?

A. That have no track connections.

Q. Oh, I thought you said they had track connections.

A. They might secure business of a firm located as conveniently to the wharf of the boat line as to the depot of the rail line if there was no track connection.

Q. You stated that you had recently put on this lighterage
6795 service here in New York?

A. No. I said we had recently acquired and constructed a lighterage plant of our own. We had it performed by contract.

Q. Before, you hired it done, did you?

A. We had it performed by contract before.

Q. Do you move wool from Nevada-Utah points, Sunset?

A. Comparatively little—well, from Utah points, no; from western Nevada I think there may be some.

Q. I observe that you have a rate in on wool by the Sunset Route to Boston. That is the great wool centre, isn't it?

A. Yes.

Q. All the way from Corinne, Utah, west?

A. By Sacramento?

Q. By Sacramento. Why do you keep in that tariff if you don't move any business over it?

A. I don't know; I didn't put it in.

Q. It has always been in, hasn't it?

A. I think so.

Q. And you have renewed it, and there was a new one put in last spring, wasn't there?

A. It has been renewed.

Q. And it is on a parity with the direct rail lines?

A. I don't know about that.

Q. Don't you carry wool from that territory?

A. I said I think from western Nevada; we may have carried a small share.

Q. Do you know whether it is western Nevada or eastern Nevada?

A. The business from eastern Nevada wouldn't come around that way—by Sacramento from eastern Nevada.

Q. What do you have the tariff for, then?

A. We haven't to any extent. I said we carried a small share of the traffic.

6796 Q. Your tariff reads clear to Corinne, Utah?

A. I said I didn't make the tariff.

Q. Years ago you used to carry a great deal more wool than you do now? Don't you know as to that?

A. No, I couldn't testify as to that.

Q. You don't know about that?

A. No.

By Mr. DUNNE:

Q. Mr. Spence, a great many questions have been asked you about your personal knowledge of this statement. This is a statement that your auditor prepared for you in the regular course of business?

A. Yes, sir.

Q. As he would prepare any other statement?

A. Yes, sir, exactly.

Q. You could not carry those things in your mind, nor could any other man?

A. Could not.

Q. That is what records and auditors are for, is it not?

A. Yes.

Q. And that is just precisely what that statement is?

A. Exactly.

Q. That auditor is here, isn't he?

A. Yes.

An adjournment was then taken until the morning of Thursday, February 17, 1910, at 10.30 o'clock.

6797 ROOM 720, CUSTOM HOUSE, NEW YORK CITY,

Thursday, February 17, 1910—10.30 a. m.

The hearing was resumed before the Special Examiner, Hon. Sylvester G. Williams, at the above time and place.

Present: On behalf of the Complainant, Mr. C. A. Severance, Mr. Frank B. Kellogg, Mr. G. E. Husted; on behalf of the Defendants, Mr. Peter F. Dunne and Mr. N. H. Loomis.

JOHN A. MUNROE,

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination by Mr. LOOMIS:

Q. What is your business?

A. Freight Traffic Manager of the Union Pacific.

Q. Please state the character and extent of your railroad experience?

A. I have been connected with the freight traffic department of the Union Pacific since the latter part of 1882, as assistant general freight agent, general freight agent, assistant general traffic manager, and now freight traffic manager—which position I hold. Prior to my connection with the Union Pacific, I was with the Chicago, St. Paul, Minneapolis & Omaha, first as their general agent at Omaha, in charge of their Nebraska division; afterwards with headquarters at Minneapolis, as assistant general traffic manager of the line. Prior to that I was with what is now known as the Green Bay & Western road, starting in as office boy and clerk, and having to do with both freight and passenger car service, accounting,
6798 and a limited amount of auditing work. That takes me back to the date of my railroad service.

Q. You were connected with the Union Pacific during the entire period of its Receivership, were you?

A. I was.

Q. There has been some testimony introduced in regard to a 32 hour train between Council Bluffs and Ogden during the year 1897. Are you familiar with the history of that train?

A. I am.

Q. And the reasons for its being put in service?

A. Yes.

Q. I wish you would explain briefly why that train service was inaugurated?

A. That train at that time was known as the Portland Special, and was inaugurated by the receivers of the Union Pacific as one of the results of a controversy, quite severe in character, which was obtaining at that time as between the receivers and the Oregon Short Line. The principal question of difference was this: Prior to the receivership, which took effect on October 13, 1893, the Oregon Short Line was a part of what was known as the Union Pacific system. When the receivership occurred, the jurisdiction of the five receivers extended over the Union Pacific, Oregon Short Line, and the Oregon Railroad & Navigation lines. In 1897, about March 17, as I recall it, the Oregon Short Line was taken out of the hands of receivers and operated thereafter by its own company. During the receivership, and prior thereto, its traffic was substantially exclusive to the Union Pacific via the Granger route; and in the division of earnings a constructive mileage allowance obtained under

which the Oregon Short Line received 1-3/4 miles for one, as their pro rata of the revenue. The receivers stated that there had been some criticism by the court on that allowance, as being unjust
6799 to the Union Pacific proper property and excessive as to the Oregon Short Line. Immediately after the Oregon Short Line Company was taken out of the receivership, they served notice on the Union Pacific receivers that they must have a larger division of revenue, and coupled with it the statement of their intention to open the Ogden and the Provo gateways.

Q. To whom?

A. To the Rio Grande and their eastern connections. The receivers felt that, having been criticized as they had been, they would not be justified in accepting a smaller unit of revenue for Union Pacific on a less volume of traffic than formerly they received on the greater and therefore they declined the Oregon Short Line proposition. As the result of that there was a good deal of feeling and a good deal of contention. And the Union Pacific, in order to lift its Portland traffic from the Oregon Short Line's, undertook to handle it via Ogden in connection with the Shasta route of the Southern Pacific, realizing, as they did (the Shasta route being so much longer)——

Q. How much longer?

A. About 650 miles, I would say, approximately that, may be a little more—that they would have to give an accelerated service to Ogden; and the order was made effective almost instantaneously by giving instructions to the operating department to run this freight train on approximately passenger schedule, which, as I recall it, at that time was 32 hours and 40 minutes, Council Bluffs to Ogden. That train was put on, and ran three times a week. Its consist was about 22 cars. And it was operated, I would say, 60 or 90 days; and it was discontinued by reason of the settlement of the differences as between the Oregon Short Line people and the receivers.

Q. Was it a practicable service, and could it possibly have
6800 been made permanent?

A. It was not so regarded, and I do not think it was. It was put on as an emergency matter, and everybody regarded it as extraordinary and exceptional and justified only by an emergency, and as temporary in character.

Q. As a matter of fact it was a war measure?

A. It was.

Q. Were you at any time while connected with the traffic department of the Union Pacific, also connected with the traffic departments of the Oregon Short Line and the Oregon Railroad & Navigation Company?

A. Yes.

Q. During what period of time?

A. Prior to the receivership, October 13, 1893, my jurisdiction was general over the O. S. L. and the O. R. & N. lines, as well as the Union Pacific proper. During the receivership it continued over those lines, as long as the five receivers were in charge. The O. R. & N. went

under the hands of a separate receiver on July 4, 1894, but the Oregon Short Line remained under the receivers until I think March 17, 1897.

Q. Your connection with the traffic department of the O. R. & N. ceased when a separate receiver was appointed?

A. It did.

Q. In 1894?

A. Yes, sir.

Q. For how long a time prior to October 13, 1893, were you connected with the traffic department of the O. R. & N. and O. S. L.?

A. I would say back to 1887, possibly 1886. I went to Omaha January 1, 1886, and my jurisdiction became general very soon after. I think January 1, 1886, would answer the question as accurately as I can.

Q. State whether or not during the time that you were connected with the traffic departments of these allied lines—
6801 the Union Pacific, Oregon Short Line and Oregon Railroad & Navigation Company, business for San Francisco was ever routed or handled via Portland and the boat line from Portland to San Francisco, that is, from points on the Union Pacific and east thereof?

A. Practically not. Once in a while a shipment moved that way; but it was so spasmodic as to justify a negative answer to your question.

Q. Why was it not routed that way?

A. The Union Pacific officers—and they changed quite frequently about those years, as you may know—considered very carefully the question of opening the Portland gateway, so-called, for the handling of San Francisco traffic; and the conclusion always reached was, that it would be an unprofitable move for the Union Pacific, hence it was not opened.

Q. What were the objections to the route?

A. A serious objection, first, was the length of the line. Portland is substantially the same distance from Omaha as San Francisco is. The sailings from Portland south, one in about every five days, enabled continuous service only when by happenstance the train might make direct connection with the ship. On the great bulk of the freight, there would be a several days' delay at Portland. The service south from Portland would have to be also added. And the combination, we felt, would virtually drive away rather than increase our takings. Furthermore, we recognized that San Francisco business was practically all that would be available to that route. We were not unmindful of the fact that water did extend to Sacramento. But when we went by water to Sacramento, our
6802 service was longer than to San Francisco, and we were competing with a correspondingly shorter rail service. As to Stockton, we never considered very much that the business justified anything of that kind. So all of our conclusions were that it was a San Francisco proposition, practically, pure and simple. And even

after we should get to San Francisco, we would be handicapped to the extent of delays in moving the freight from the pier to the warehouses, especially when the same were located upon rails of the Southern Pacific and served directly by that company. The Southern Pacific was the only connection we had for our California business at that time; and the value of our California business was very much greater on other than San Francisco than on San Francisco proper business. We also bore in mind that we had quite a movement of perishable freight that under no circumstances could be successfully handled via Portland. Then we also tried to view the matter from the standpoint of the Southern Pacific as well as ourselves, and we felt that any move we might make along those lines would be regarded as a hostile one by the Southern Pacific, and that they would naturally retaliate, and that they were in a position to do this very successfully, and could and would, we believed, make the experiment a very costly one for the Union Pacific. Those were the reasons which appealed to us then, and which would today; coupled with this: that the service via Portland, being necessarily inferior, the competitors of the Union Pacific, notably those operating via Kansas City and Albuquerque (the Santa Fe System), those in territory nearer to us (notably the C. B. & Q. and the D. & R. G.) via Ogden and Southern Pacific, would be able to also profit
6803 by our experiments. So it was a knife that would cut both ways.

Q. A great deal has been suggested in this case to the effect that the possession of this boat line from Portland to San Francisco was a great big club which could be used to enforce more favorable terms from the Southern Pacific. I would like your judgment as to the effectiveness of that club.

A. There might be that view taken of it. But the fact of the matter is, as far as divisions, joint, as between the Southern Pacific and Union Pacific, they were on a basis as originally established when the roads were opened in 1869; and we never felt that they were unjustly excessive as far as the Southern Pacific was concerned; and we saw no necessity of swinging a club, when there was no injustice to be removed, and we were satisfied to have the divisions remain as they were. We did not have any differences. Furthermore, it was a club which, if swung, would come right back and prove a boomerang with us and cost us more than it was worth.

Q. Please explain how it would prove a boomerang and how it would cost you more than it was worth.

A. In the first place, we could not open that route without probably a change of rates. We were satisfied we could not do any business on anything but a differential basis. We were satisfied that a differential basis would be unprofitable; that any basis we might seek to put in via Portland would be duplicated by our competitors through Ogden, and that simply would be the means, as it were, of committing suicide with our own revenue; and we recognized that we were trying to use a tool that was not sharp enough to do the

business; that we were handicapped geographically, and that
6804 there was nothing we could do via that round about broken-service gateway that would really prove a money-making proposition to our company.

Q. If the Union Pacific had attempted to use that sort of a club, what sort of a club could the Southern Pacific have used in return?

A. Their influence with their patrons, both consignors and consignees, to deflect from Union Pacific rails, more especially to the D. & R. G. and connections, business which without their effort would probably move via Union Pacific rails.

Q. To what extent could traffic have been deflected from the Union Pacific to the Rio Grande, by the Southern Pacific in the event of hostilities such as we have assumed?

A. Very largely.

Q. To what extent would it have affected the revenues of the Union Pacific?

A. In my judgment it would have diminished the revenues of the Union Pacific far beyond any profit, if they had realized, via Portland to San Francisco, their most sanguine expectations in the taking of San Francisco traffic.

Q. Are you familiar with the early relations of the Union Pacific with the Colorado & Southern?

A. I am.

Q. Did the Union Pacific Railway Company at any time control the Colorado & Southern? If so, when?

A. About the year 1888, may be 1889, the Union Pacific people cooperated with the line between Denver and Fort Worth, in organizing a new company, known as the Union Pacific, Denver & Gulf. Into that company they merged certain lines of the Union Pacific, in addition to the lines between Denver and Fort Worth. These lines consisted of, first, what is known as the Julesburg Branch, Julesburg to LaSalle; next, the Cheyenne and Northern, run-
6805 ning from Cheyenne north to Orin Junction; next the Colorado Central interests, consisting of the standard gauge line from Denver via Boulder to Greeley and Fort Collins, also the narrow gauge system, Denver to Central City and Georgetown, also the old South Park Line, then so-called, the Denver, Leadville & Gunnison Narrow Gauge, from Denver to Gunnison and Leadville. They were all merged under this common corporation, the Union Pacific, Denver & Gulf, and were operated by the Union Pacific people until the receivership, and thereafter from October 13, 1893, to December 18, 1893, when a separate receiver was appointed (Mr. Trumbull); and since that time the Union Pacific has had nothing to do with the management of that property, with this exception: that they did purchase the line between Julesburg and LaSalle, which is now a part of the Union Pacific Railroad.

Q. These various lines which you have enumerated, which were consolidated upon the acquisition of the Denver & Fort Worth Railroad, now constitute the Colorado & Southern?

A. The Colorado & Southern System, which is the successor company of the U. P. D. & G., following the receivership.

Q. After the acquisition of the Colorado & Southern, I will ask you to state what, if anything, was done by the Union Pacific Railway Company to obtain traffic from the Atlantic seaboard via the Colorado & Southern from Fort Worth?

A. This U. P. D. & G. organization was made very shortly after the rails were connected between Denver and Fort Worth, and, in 1888, or early in 1889, a through route was opened jointly with the Southern Pacific interests south of Fort Worth, so as to handle traffic from the Atlantic seaboard to the points common in Colorado, and
6806 later the arrangement was extended to include also the Utah common points; so that the Union Pacific interests practically were the first to open that line.

Q. Give the constituent members of that through route.

A. The Southern Pacific's steamship lines from New York to New Orleans; then the rails of their Atlantic system from there to Fort Worth; then the Union Pacific, Denver & Gulf rails north to Denver, and the Union Pacific proper rails from Denver via Cheyenne to Ogden, and the Short Line rails from Ogden south to Salt Lake City.

Q. You say this was the first through route inaugurated for the purpose of carrying seaboard business to Colorado and Utah common points via the Gulf ports?

A. That is my recollection and understanding.

Q. Solidified by the Union Pacific Railway Company?

A. Yes.

Q. In the year 1889?

A. 1888 or 1889; about that time.

Q. Upon what basis, as far as rates were concerned, was that route established?

A. The rate basis was more or less a subject of discussion; but, after several conferences, we arrived at a basis under which the through rates from New York would base on 80 per cent of the New York-Chicago canal and lake rates plus locals west of Chicago; and that basis was made effective, and obtained for several years, until after the receivership. Under that basis, the Gulf lines had a differential scale of 43 cents per hundred, first class, grading from that down. After the Trumbull receivership, the question was resurrected, and that was modified to a 39 cent scale, which still obtains, both as to Colorado and Utah common points.

Q. What became of this through route via the Gulf and the Colorado and Southern, so far as Colorado common points are
6807 concerned, when the control of the Colorado and Southern passed from the Union Pacific management?

A. The route and line still continued, but the Union Pacific proper, of course, had no interest in the revenue south of Denver, subsequent to the Trumbull receivership; but it did cooperate in the same through line as it does today, to the Utah common points.

Q. At the time the Colorado & Southern was controlled by the Union Pacific, how many different gateways did it have through which it solicited seaboard business for points on its lines, and beyond?

A. You mean the Union Pacific?

Q. Yes.

A. The Union Pacific has always worked its traffic via its various gateways. Its principal gateway is Council Bluffs. It has had a very good interchange via Kansas City. This new line gave them another gateway, at Fort Worth. The interchange at Kansas City and Council Bluffs was both all-rail and water and rail; for, notwithstanding the opening of the Gulf route, water routes had always existed from the Atlantic seaboard to the Mississippi River and beyond territory, in the intermountain country. So we worked via all of them.

Q. Which one did you work preferentially?

A. There was no particular preference as between the lines east of any particular gateway, for a number of years; but the Council Bluffs gateway was the one preferred by the Union Pacific, because it represented a greater net return than the handling of traffic via any other gateway; that is to say, we got as much money gross for 569 miles service, Omaha to Denver, over a water grade line, as we could get for the more expensive service from Kansas City—640 miles, which, in turn, was less expensive than the line north of
6808 Fort Worth, under conditions which might be normal. So the Council Bluffs gateway was always the preferred one in the handling of Union Pacific traffic in general, although our policy then was, and is now, to offer the various kinds of transportation we have to sell, to the various patrons seeking purchase.

Q. If you could not secure the business through the Council Bluffs gateway, and the privilege of making a choice as to the other two routes, which one would you select?

A. Naturally, we would prefer Kansas City to Fort Worth.

Q. For what reason?

A. Simply because it represented more net return to us for service rendered.

Q. And if you couldn't get the business either through the Council Bluffs or Kansas City gateway, then you would take it——

A. Fort Worth; and would be very glad to get it. While we had that preference, I do not think we ever announced it openly to our patrons. We generally felt our way, and found out what they wanted, and endeavored to sell them the kind of goods they were seeking. I am giving you inside information as to our preferences, although we never published or announced them.

Q. Now, with reference to the South Atlantic ports, the Union Pacific has a route via the South Atlantic ports to points in Colorado and Utah, I believe?

A. It works certain business via those gateways, yes sir.

Q. When did it first begin getting business through the South Atlantic ports?

A. We have always had more or less traffic in connection with the South Atlantic ports—principally less, until about 1905; then
6809 the more active working of the South Atlantic port gateways commenced, and has obtained actively from that day to this, and we have had a very nice movement of traffic through those gateways.

Q. In the spring of 1901, what was the extent of the traffic the Union Pacific received through the South Atlantic ports?

A. Very small. At that time practically all the water and rail seaboard traffic moved by the Gulf ports. South Atlantic ports had not got into the market to any great extent.

Q. Such as it was, by what steamship line was it carried from New York to South Atlantic ports?

A. The Kanawha Despatch route was the principal one, in those days, using the Old Dominion Steamship Company from New York to Norfolk, and Chesapeake & Ohio and connections from there west.

Q. What South Atlantic port did that Steamship Company use?

A. Newport News.

Q. Now, you spoke of seeking to obtain the business more extensively by the South Atlantic ports, in the year 1905. I wish you would go into that in greater detail, and explain what you did and how you did it, and the route that was formed.

A. That was a perfectly natural move upon the part of the Union Pacific; because we all know it takes time to educate a public to the use of a new line. From the year 1893 to 1898 the conditions all over the country were very bad commercially. During that period every merchant was seeking to reduce his expenses and increase his earnings, in every possible way. Business was very poor. The differentials, therefore, appealed then more strongly than ever before; and we noticed quite a material deflection of traffic
6810 theretofore moving all-rail (which, by the way, paid the Union Pacific more money than the water and rail) from the rail lines to the water lines; and we felt that it was high time for us, in street parlance, to "get busy" and work a water line; and we put forth our efforts—Do you want all the history of this?

Q. Yes.

Mr. SEVERANCE. Just a minute. Mr. Loomis, didn't you make a mistake in your question? You said "1905." Did you mean that, or did you mean 1895?

WITNESS. 1905 is when we commenced to actively work.

Mr. LOOMIS. 1905.

Mr. SEVERANCE. I thought you were speaking now of from 1893 to 1898.

Mr. LOOMIS He was.

Mr. SEVERANCE. This is preliminary?

Mr. LOOMIS. This is preliminary, yes.

WITNESS. It had grown up from that, you know.

Mr. SEVERANCE. All right.

WITNESS. And we cast about for a new line. At that time the Ocean Steamship Company, running between here (New York) and Savannah, and the Georgia Railroad from Savannah to Birmingham, made direct connection with the Frisco from Birmingham to Kansas City, and, with our line to Denver, we thought we could develop quite a traffic. We were aware of the close relations at that time between the Frisco and the Rock Island. We conferred with the Frisco, and they were very alive to the situation and desirous of cooperating with us, and raised the question whether we could successfully cooperate, and they said we could, and assured us
6811 that notwithstanding the Frisco relations with the Rock Island, we would have their undivided support west of Kansas City. On that basis we got together and worked very hard, and built up a very nice tonnage.

Mr. SEVERANCE. When was that?

WITNESS. That was in 1905 and 1906. After we had gotten it going pretty well, the Frisco people underwent a change of heart and notified us that their relations with the Rock Island were such that they would have to work preferentially with the Rock Island as against the Union Pacific; would have to operate their through package cars Rock Island and not Union Pacific; would be glad to handle anything we might give them, as far as Kansas City, and give it to us there, handling it in their Kansas City car. That convinced us that we could not afford to have a half-hearted partner, and that it meant the breaking up of the line; and we so accepted that situation, and cast about and did make new alliances, and were successful in transferring a nice lot of our business from the old to the new line thereby created.

Mr. SEVERANCE. What was the new line?

Mr. LOOMIS. I will get that.

Mr. SEVERANCE. Excuse me. I thought you omitted that.

Mr. LOOMIS. I will follow this up, Mr. Severance.

Q. Did they take out, or threaten to take out, the through rates which existed between New York and Utah and Colorado common points via this route?

A. Oh, no.

Q. Did they refuse or threaten to refuse to handle the business over their lines?

A. No, quite to the contrary. They said they would be very glad indeed to handle our business, of course, but that we
6812 could not expect any particular support from them. That was the idea conveyed.

Q. And that they intended to work preferentially, in the future, with the Rock Island?

A. They did.

Q. And because you did not want any half-hearted member of the through route you looked about for other alliances, and established another through route, via the South Atlantic ports?

A. That is true, coupled with this thought: That we knew from experience that if they handled our business part way, it would only be a very short time before they would attempt to handle it the entire way, and we didn't think it wise that we should put our interests in their basket, so to speak, east of Kansas City.

Q. Now, explain the details of that. Why was it not wise, and how could they take advantage of you if you continued to do business with them?

A. We will suppose that Mr. A, living in Denver, was a regular patron of the Union Pacific west of Kansas City, and that we routed through him 500 tons of freight, if you please, within a given period, from New York to Denver, in connection with the Frisco east of Kansas City. They would participate in the revenue, of course. They would know where the business came from, and to whom it was going. They would make a careful analysis of the business; and the first thing we would know would be their efforts applied to Mr. A to divert the business, not from their rails east of Kansas City, but to the Rock Island ones west thereof, and cut us out of the business. In other words, they would make their best efforts to wean away joint patrons and make them hundred per cent patrons of the line in which they were more interested.

6813 Q. Who controlled the routing of that traffic?

A. Very largely, consignees in Denver.

Q. And you worked the business up through solicitation with the Denver shippers?

A. The Union Pacific is a strong line in Denver, and its strength was recognized by the Frisco, hence the original arrangement. We worked it actively with the consignees.

Q. Now, getting back to what Mr. Severance wanted, please state what arrangements were afterward made for the establishment of another through route by the South Atlantic ports.

A. We then transferred our efforts from the co-called Savannah-Frisco Line to the Cumberland Gap Despatch, which consisted of steamship service from New York to Norfolk, and the Norfolk & Western and its connections to Kansas City: Union Pacific beyond. That line is still in existence and enjoying a very reasonable share of the traffic. Conditions have also changed somewhat as to the Savannah line, and we are getting some business from them now, but working through links other than the Frisco between Birmingham and Kansas City.

Q. Something has been said in the testimony about transcontinental traffic. I wish you would define what transcontinental traffic is?

A. "Transcontinental traffic" is a term applied to the transcontinental lines which are recognized as beginning at the Missouri River and working through to the Pacific coast, or what we desig-

nate as "Missouri River territory." That would include St. Paul and Minneapolis on the north, as well as Omaha and Kansas City on the south. Transcontinental traffic is all traffic in both directions,
6814 between the Missouri River and east territory on the one hand, extending as far east as the Atlantic Ocean, and the Pacific coast terminals, so-called, on the west. These are, in California, San Francisco, Sacramento, San Jose, Oakland, etc. And the Pacific coast portion of the territory comes east to a north and south line which passes the Northern Pacific at Granite, Idaho, the Oregon Short Line at Kuna, Idaho, deflects a little to the southeast and passes the Southern Pacific rails near Corinne, and moves on south and crosses the Atchison somewhere near Albuquerque. All traffic between points on the east, on the one hand, and that described west, on the other, we speak of as "transcontinental traffic."

Q. I will ask you if this is the tariff covering transcontinental traffic? (Handing a tariff to the witness.)

A. It is. This is Transcontinental Freight Bureau Westbound Tariff No. 1–J, issued October 15th last, and which took effect December 6th last, and is still in effect.

Q. Does that give the concurring parties to the tariff?

A. It does.

Q. Upon what page or pages?

A. It starts on page 1, "Participating Carriers," and runs eight pages.

Q. How many of them are there?

A. 473.

Q. 473 different railroads?

A. That have filed their concurrences as required by the Interstate Commerce Commission.

Q. Are all of those railroads engaged in the transcontinental traffic?

A. They are.

Q. Were substantially the same railroads engaged in the transcontinental traffic in the spring of 1901?

A. Practically.

6815 Mr. LOOMIS. I would like to introduce in evidence the title page of this tariff, and pages 1, 2, 3, 4, 5, 6, 7 and 8, giving a list of the participating carriers.

Mr. SEVERANCE. No objection to them.

The pages offered were marked Defendants' Exhibit 60, and are as follows:

DEFENDANTS' EXHIBIT 60.

(Munroe.)

Only Three Supplements to this Tariff will be in Effect at any Time.

C. R. C. No. 3 of C. W. Bullen, Agent.
(Cancels C. R. C. No. 1.)
C. R. C. No. 114 of J. F. Tucker, Agent.
(Cancels C. R. C. No. 82.)
C. R. C. No. 254 of R. H. Countiss, Agent.
(Cancels C. R. C. No. 238.)
R. C. O. No. 112 of J. F. Tucker, Agent.
(Cancels R. C. O. No. 81.)

I. C. C. No. 6 of C. W. Bullen, Agent.
(Cancels I. C. C. No. 4.)
I. C. C. No. 146 of J. F. Tucker, Agent.
(Cancels I. C. C. No. 110.)
I. C. C. No. 904 of R. H. Countiss, Agent.
(Cancels I. C. C. No. 887.)

TRANSCONTINENTAL FREIGHT BUREAU.

WEST-BOUND TARIFF NO. 1-J.

(Cancels West-Bound Tariff No. 1-I, which took effect June 5, 1909, and all Supplements thereto.)

Naming

LOCAL AND JOINT CLASS RATES

Governed by Western Classification No. 47 (I. C. C. No. 5 of F. O. Becker, Agent) Supplements thereto or Reissues thereof

and

LOCAL, JOINT AND PROPORTIONAL COMMODITY RATES

from

EASTERN SHIPPING POINTS

designated on pages 2 to 10, inclusive,

to

"CALIFORNIA TERMINALS"

designated on page 11

and

OTHER POINTS IN CALIFORNIA, NEVADA AND UTAH

as provided on page 12.

ISSUED OCTOBER 15, 1909. EFFECTIVE DECEMBER 6, 1909.

The Manner of Showing Points of Origin in this Tariff is adopted under Special Permission of the Interstate Commerce Commission No. 6502, of date July 28, 1908.

Issued by--

C. W. BULLEN, Agent,
142 Liberty Street,
New York, N. Y.

J. F. TUCKER, Agent,
The Rookery,
Chicago, Ill.

R. H. COUNTISS, Agent,
443 Railway Exchange,
Chicago, Ill.

(Auth. 2365.)

Name of carrier	Powers of attorney.			Concurrences.		
	To C. W. Bullen.	To J. F. Tucker.	To R. H. Countiss.	To carriers for which C. W. Bullen is agent.	To carriers for which J. F. Tucker is agent.	To carriers for which R. H. Countiss is agent.
Abbotsford & Northeastern R. R.						FX8-No. 1.
Abilene & Southern R'y						FX8-No. 5.
Ahnapee & Western R'y				FX8-No. 3.	FX6-No. 3.	FX8-No. 2.
Alabama Great Southern R. R.				FX8-No. 3.	FX6-No. 12.	FX8-No. 2.
Alabama & Vicksburg R'y				FX8-No. 5.	FX6-No. 7.	FX8-No. 6.
Albia & Centerville R'y			FX1-No. 7.	FK8-No. 2.	(FX6-No. 5. (Corrected.)	
Ann Arbor R. R.				FX8-No. 1.	FX6-No. 7.	FX8-No. 5.
Arcadia & Betsey River R'y		FX1-No. 29.		FX8-No. 3.	FX6-No. 6.	FX8-No. 4.
Arkansas Central R. R.		FX1-No. 191.				FX8-No. 2.
Arkansas & Louisiana R'y						FX8-No. 2.
Arkansas, Louisiana & Gulf R'y						FX8-No. 4.
Arkansas Midland R. R.						FX8-No. 1.
Arkansas, Oklahoma & Western R. R.						FX8-No. 4.
Arkansas Southwestern R'y						FX8-No. 3.
Arkansas Western R'y						FX8-No. 13.
Ashland & Western R'y						FX8-No. 4.
Atchison, Topeka & Santa Fe R'y		FX1-No. 10.				
Atlanta & Birmingham Air Line R'y			FX1-No. 17.	FX8-No. 2.	FX6-No. 6.	
Atlanta & West Point R. R.						FX8-No. 1.
Atlantic City R. R.						FX4-No. 14.
Atlantic Coast Line R. R.	FX1-No. 2.			FX8-No. 2.		
Baltimore & Ohio R. R.:						
New York, N. Y., Philadelphia, Pa., and points on B. & O. R. R. west thereof and east of Jacobs Creek, Pa., Moundsville, New Martinsville, and Parkersburg, W. Va.						FX8-No. 2.
Baltimore & Ohio R. R.:	FX1-No. 16.			FX8-No. 1.		FX8-No. 7.
Jacobs Creek, Washington, Pa., Wheeling, Moundsville, Parkersburg, W. Va., and west thereof; also points on Ohio River Division, Wheeling to Kenova, W. Va., incl.						
Baltimore & Ohio Southwestern R. R.		FX1-No. 22.		FX8-No. 1.		FX8-No. 7.
Baltimore & Sparrows Point R. R.		FX1-No. 25.		FX8-No. 2.	FX6-No. 11.	FX8-No. 5.
Baltimore, Chesapeake & Atlantic R'y	FX1-No. 5.					
Baltimore Steam Packet Co.	FX1-No. 4.					
Bangor & Aroostook R. R.						FX8-No. 1.
Bath & Hammondsport R. R.						FX8-No. 1.
Bayonne & New Haven Transportation Co.	FX1-No. 2.					FX8-No. 1.
Beaumont, Sour Lake & Western R'y						
Belt R'y Co. of Chicago				FX8-No. 6.	FX6-No. 3.	FX8-No. 23.
				FX8-No. 3.	FX6-No. 5.	FX8-No. 2.
						FX8-No. 1.

Berlin & New York Transportation Co.						FX8-No. 22.
Bessemer & Lake Erie R. R.		FX1-No. 7.		FX8-No. 4 A.	FX6-No. 8A.	FX8-No. 5A.
Big Level & Kinzua R. R.	FX1-No. 6.					
Blaney & Southern R'y.						
Bloomsburg & Sullivan R. R.	FX1-No. 4.					FX8-No. 2.
Boston & Albany R. R. (N. Y. C. & H. R. R., Lessee)	FX1-No. 6.			FX8-No. 1.		
Boston & Gloucester S. S. Co.				FX8-No. 2.		FX8-No. 10.
Boston & Maine R. R.	FX1-No. 8.					FX8-No. 1.
Boyne City, Gaylord & Alpena R. R.		FX1-No. 20.		FX8-No. 2.		FX8-No. 6.
Bradford & Western Penna. R. R.	FX1-No. 2.					
Brinkley, Helena & Indian Bay R. R.						FX8-No. 1.
Buffalo & Susquehanna R'y.	FX1-No. 6.					
Buffalo, Attica & Arcade R. R.	FX1-No. 5.			FX8-No. 1.		
Buffalo, Rochester & Pittsburg R'y.	FX1-No. 12.					
Bush Line (Geo. W. Bush & Sons Co.).				FX8-No. 1.		
Bush Terminal R. R.	FX1-No. 14.					FX8-No. 17.
Calumet & Southeastern R. R.				FX8-No. 3.		
Canadian Northern R'y.						FX8-No. 17.
Canadian Northern Quebec R'y.						FX8-No. 1.
Canadian Pacific R'y.						FX8-No. 2.
Canadian Pacific Car & Passenger Transfer Co. Ltd.			FX1-No. 16.	FX8-No. 1.	{FX6-No. 1. {FX6-No. 6.	FX8-No. 3.
Catasauqua & Fogelsville R. R.	FX1-No. 3.					FX8-No. 1.
Catskill & New York Steamboat Co.				FX8-No. 3.		
6818 Central Hudson Steamboat Co.						FX8-No. 27.
Central Indiana R'y.						FX8-No. 1.
Central New England R'y.		FX1-No. 36.			FX6-No. 8.	FX8-No. 3.
Central of Georgia R'y.	FX1-No. 4.			FX8-No. 2.		FX8-No. 6.
Central of Ontario R'y.						FX8-No. 1.
Central R. R. Co. of New Jersey.				FX8-No. 130.		FX8-No. 1.
Central R. R. Co. of Pennsylvania.	FX1-No. 2.			FX8-No. 1.		FX8-No. 9.
Central Vermont R'y.						FX8-No. 1.
Chesapeake & Ohio R'y.:	FX1-No. 6.			FX8-No. 1.		FX8-No. 6.
Except Gauley, W. Va., to Cincinnati, Ohio, and Lexington, Ky.				FX8-No. 1.		{FX8-No. 3. {FX8-No. 5.
Chesapeake & Ohio R'y.: Gauley, W. Va., and west thereof to Cincinnati, Ohio, and Lexington, Ky., including all branches.		FX1-No. 17.		FX8-No. 1.		FX8-No. 5.
Chesapeake Steamship Co.						FX8-No. 2.
Chester Shipping Co.						FX8-No. 8.
Chicago, Anamosa & Northern R'y.				FX8-No. 4.	FX6-No. 5.	FX8-No. 1.
Chicago & Alton R. R.				FX8-No. 2.	FX6-No. 8.	FX8-No. 4.
Chicago & Duluth Transportation Co.				FX8-No. 1.	FX6-No. 3.	FX8-No. 1.
Chicago & Eastern Illinois R. R.		FX1-No. 38.		FX8-No. 5.	FX6-No. 10.	{FX8-No. 7. {FX8-No. 3.
Chicago & Erie R.R.		FX1-No. 10.		FX8-No. 1.	FX6-No. 7.	FX8-No. 4.
Chicago & Illinois Midland R'y.					FX6-No. 5.	FX8-No. 1.
Chicago & Illinois Western R. R.						FX8-No. 3.
Chicago & North-Western R'y.		FX1-No. 39.	FX1-No. 28.	FX8-No. 3.	FX6-No. 8.	FX8-No. 2.
Chicago, Burlington & Quincy R. R.		FX1-No. 16.		FX8-No. 1.	FX6-No. 5.	
Chicago, Cincinnati & Louisville R. R.				FX8-No. 1.	FX8-No. 10.	FX8-No. 3.
Chicago Great Western R'y.				FX8-No. 3.	FX6-No. 7.	FX8-No. 1.

Participating carriers—Continued.

Name of carrier	Powers of attorney			Concurrences		
	To C. W. Bullen	To J. F. Tucker	To R. H. Countiss	To carriers for which C. W. Bullen is agent	To carriers for which J. F. Tucker is agent	To carriers for which R. H. Countiss is agent
Chicago, Indianapolis & Louisville R'y		FX1-No. 23			FX6-No. 10	FX8-No. 5.
Chicago, Indiana & Southern R. R		FX1-No. 22		FX8-No. 3	FX6-No. 10	FX8-No. 4.
Chicago, Kalamazoo & Saginaw R'y		FX1-No. 19			FX6-No. 8	FX8-No. 9.
Chicago, Lake Shore & Eastern R'y		FX1-No. 19		FX8-No. 1	FX6-No. 7	FX8-No. 4.
Chicago Lighterage Co						FX8-No. 5.
Chicago, Milwaukee & Gary R'y						FX8-No. 2.
Chicago, Milwaukee & St. Paul R'y				FX8-No. 4	FX6-No. 7	FX8-No. 102.
Chicago, Peoria & St. Louis R'y (of Illinois)				FX8-No. 3	FX6-No. 8	FX8-No. 1.
Chicago, Racine & Milwaukee Line		FX1-No. 28		FX8-No. 2	FX6-No. 8	FX8-No. 3
Chicago, Rock Island & El Paso R'y		FX1-No. 11		FX8-No. 2 (Corrected)	FX6-No. 1	FX8-No. 4. FX8-No. 1.
Chicago, Rock Island & Gulf R'y			FX1-No. 31	FX8-No. 4	FX8-No. 13	
Chicago, Rock Island & Pacific R'y				FX8-No. 3	FX6-No. 2	FX8-No. 2
Chicago, Short Line R'y			FX1-No. 48	FX8-No. 4	FX6-No. 12	
Chicago, St. Paul, Minneapolis & Omaha R'y						FX8-No. 1
Chicago Southern Ry				FX8-No. 4	FX6-No. 6	FX8-No. 1.
Chicago Terminal Transfer R. R		FX1-No. 19			FX6-No. 2	
Chicago Warehouse & Terminal Co				FX8-No. 3	FX6-No. 4	FX8-No. 1
Chicago, West Pullman & Southern R'y						FX8-No. 1
Chippewa Valley & Norther R'y						FX8-No. 26
Cincinnati & Muskingum Valley R. R						FX8-No. 1
Cincinnati, Burnside & Cumberland River R'y		FX1-No. 28				FX8-No. 3
Cincinnati, Hamilton & Dayton R'y						FX8-No. 9.
Cincinnati, Lebanon & Northern R'y		FX1-No. 43		FX8-No. 1	FX6-No. 10	FX8-No. 6.
Cincinnati, New Orleans & Texas Pac. Ry		FX1-No. 31		FX8-No. 4	FX6-No. 11	FX8-No. 6.
Cincinnati Northern R. R				FX8-No. 3	FX6-No. 14	FX8-No. 9.
Cleveland, Akron & Columbus Ry		FX1-No. 29		FX8-No. 2	FX6-No. 13	FX8-No. 6.
Cleveland, Cincinnati, Chicago & St. Louis R'y		FX1-No. 17		FX8-No. 1	FX6-No. 7	FX8-No. 3.
Clyde Steamship Co		FX1-No. 29		FX8-No. 2	FX6-No. 13	FX8-No. 6.
Coal & Coke R'y						FX8-No. 3.
Colfax Northern R. R		FX1-No. 15		FX8-No. 1		FX8-No. 5.
Colorado & Southeastern R. R				FX8-No. 3	FX6-No. 2	FX8-No. 1.
6819 Colorado & Southern R'y			FX1-No. 13	FX8-No. 3	FX6-No. 4	
Colorado & Wyoming R'y			FX1-No. 10	FX8-No. 4	FX6-No. 3	
Colorado Midland R'y						FX8-No. 1.
Colorado Southern, New Orleans & Pacific R. R			DX1-No. 7	FX8-No. 1	FX6-No. 4	
				FX8-No. 5	FX6-No. 4	FX8-No. 2

Colt's Express Co						FX8–No. 7.
Copper Range R. R					FX6–No. 5	FX8–No. 3.
Cornwall R. R	FX1–No. 3			FX8–No. 1		FX8–No. 4.
Cornwall & Lebanon R. R	FX1–No. 4			FX8–No. 1		
Condersport & Port Allegheny	FX1–No. 3	FX1–No. 13		FX8–No. 1		
Crittenden R. R						FX8–No. 3.
Crooked Creek R. R. & Coal Co				FX8–No. 2	FX6–No. 5	FX8–No. 1.
Cumberland & Pennsylvania R. R	FX1–No. 4	FX1–No. 11		FX8–No. 1		
Cumberland Valley R. R	FX1–No. 4			FX8–No. 1		
Dansville & Mt. Morris R. R	FX1–No. 8					
Dardanelle, Ola & Southern R'y						FX8–No. 5
Dayton & Union R. R		FX1–No. 10			FX6–No. 10	
Delaware & Eastern R'y	FX1–No. 2					
Delaware & Hudson Co	FX1–No. 8			FX8–No. 3		
Delaware, Lackawanna & Western R. R	FX1–No. 8			FX1–No. 8	FX8–No. 7	FX8–No. 6.
Denison & Pacific Suburban R'y			FX1–No. 11	FX8–No. 4	FX8–No. 3	
Denver & Rio Grande R. R			FX1–No. 12	FX8–No. 2	FX6–No. 4	
Detroit & Charlevoix R. R		FX1–No. 14				(FX8–No. 1.
Detroit & Mackinac R'y		FX1–No. 29				(FX8–No. 2.
Detroit & Toledo Shore Line R. R		FX1–No. 13			FX6–No. 10	
Detroit, Toledo & Ironton R. R		FX1–No. 31		FX8–No. 1	FX6–No. 4	FX8–No. 3.
Devalls Bluff Navigation Co				FX8–No. 1	FX6–No. 7	FX8–No. 5.
Duluth, South Shore & Atlantic R'y				FX8–No. 103		FX8–No. 100.
Dunkirk, Allegheny Valley & Pittsburg R. R. (N. Y. C. & H. R. R. R. Lessee)		FX1–No. 15		FX8–No. 1	FX6–No. 5	FX8–No. 2.
East Jersey R. R. & Terminal Co				FX8–No. 2	FX6–No. 14	FX8–No. 6.
East Jordan & Southern R'y						FX8–No. 47.
Eastern R'y Co. of New Mexico						FX8–No. 1.
Eastern Steamship Co			FX1–No. 17	FX8–No. 2	FX6–No. 6	
El Dorado & Bastrop R'y						FX8–No. 1.
						FX8–No. 1.
Elgin, Joliet & Eastern R'y		FX1–No. 45		FX8–No. 1	FX6–No. 6	(FX8–No. 2.
Elizabethport Lighterage Co						(FX8–No. 5.
El Paso Southwestern System:						FX8–No. 1.
El Paso & Northeastern R'y			FX1–No. 11	FX8–No. 3	FX6–No. 3	
El Paso & Northeastern R. R			FX1–No. 11	FX8–No. 3	FX6–No. 3	
El Paso & Rock Island R'y			FX1–No. 11	FX8–No. 3	FX6–No. 3	
El Paso & Southwestern R. R. Co. of Texas			FX1–No. 11	FX8–No. 3	FX6–No. 3	
Erie R. R. (Lines east of Buffalo and Salamanca)	FX1–No. 4			FX8–No. 1		FX8–No. 11.
Erie R. R. (Lines Buffalo, Salamanca and west thereof)		FX1–No. 8		FX8–No. 1	FX6–No. 7	FX8–No. 4.
Escanaba & Lake Superior R. R				FX8–No. 4	FX6–No. 5	FX8–No. 2.
Evansville & Indianapolis R. R		FX1–No. 31		FX8–No. 1	FX6–No. 10	FX8–No. 5.
Evansville & Terre Haute R. R		FX1–No. 31		FX8–No. 1	FX6–No. 10	FX8–No. 5.
Fairchild & Northeastern R'y				FX8–No. 4	FX6–No. 7	FX8–No. 1.
Farmerville & Southern R. R						FX8–No. 3.
Fonda, Johnstown & Gloversville R. R	FX1–No. 5					
Frontier Steamboat Co						FX8–No. 45.
Fort Dodge, Des Moines & Southern R. R				FX8–No. 8	FX6–No. 13	FX8–No. 12.
Ft. Smith & Western R. R					FX6–No. 3	FX8–No. 2.
Ft. Wayne, Cincinnati & Louisville R. R		FX1–No. 30			FX6–No. 11	FX8–No. 6.
Ft. Worth & Denver City R'y				FX8–No 5		FX8–No. 4.
Ft. Worth & Rio Grande R'y						FX8–No. 2.

Participating carriers—Continued.

Name of carrier.	Powers of attorney.			Concurrences.		
	To C. W. Bullen.	To J. F. Tucker.	To R. H. Countiss.	To carriers for which C. W. Bullen is agent.	To carriers for which J. F. Tucker is agent.	To carriers for which R. H. Countiss is agent
Frankfort & Cincinnati R'y						FXs-No. 5.
Fullers Express Co						FXs-No. 1.
Galveston, Harrisburg & San Antonio R'y			FX1-No. 15	FXs-No. 9	FX6-No. 7	
Georgia R. R						FXs-No. 2.
Gettysburg & Harrisburg R'y	FX1-No 10			FXs-No. 4		
Goodrich Transit Co		FX1-No. 35			FX6-No. 5	FXs-No. 1.
Grafton & Upton R. R	FX1-No. 6					FXs-No. 4.
Graham & Morton Trans. Co		FX1-No. 16			FX6-No. 3	FXs-No. 1
Grand Rapids & Indiana R'y		FX1-No. 11			FX6-No. 9	FXs-No. 3.
6820 Grand Trunk R'y System (Lines east of Detroit and St. Clair Rivers)	FX1-No. 14		FX1-No. 17	FXs-No. 2	FX6-No. 5	FXs-No. 5.
Grand Trunk R'y System (Lines west of Detroit and St. Clair Rivers)		FX1		FXs-No. 2	FX6-No. 6	FXs-No. 4
Great Northern R'y			FX1-No. 11	FXs-No. 7	FXs-No. 13. (Corrected)	
Great Western R'y						FXs-No. 2.
Green Bay & Western R. R				FXs-No. 3	FX6-No. 3	FXs-No. 2.
Gulf-Colorado & Santa Fe R'y			FX1-No. 17	FXs-No. 2	FX6-No. 6	
Gulf & Interstate R'y Co. of Texas			FX1-No. 8			
Gulf & Sabine River R. R. (Fullerton Division)						FXs-No. 3.
Gurdon & Ft. Smith R. R						FXs-No. 3.
Hackensack & New York Steamboat Co						FXs-No. 1.
Hardwick & Woodbury R. R						FXs-No. 55.
Hartford & New York Trans. Co						FXs-No. 3.
Hoboken Manufacturers' R. R	FX1-No. 9					
Hocking Valley R'y		FX1-No. 12		FXs-No. 1	FX6-No. 8	FXs-No. 3.
Hudson Navigation Co						FXs-No. 2.
Hunters Run & State Belt R. R						FXs-No. 1.
Huntingdon & Broad Top Mountain R. R. & Coal Co	FX1-No. 5			FXs-No. 1		
Houston & Shreveport R. R				FXs-No. 9	FX6-No. 7	FXs-No. 4.
Houston & Texas Central R'y				FXs-No. 9	FX6-No. 7	FXs-No. 2.
Houston, East & West Texas R'y				FXs-No. 8	FX6-No. 7	FXs-No. 3.
Illinois Central R. R			FX1-No. 73	FXs-No. 4	FX6-No. 12	
Illinois Northern R'y				FXs-No. 30	FX6-No. 37	FXs-No. 25.
Illinois Southern R'y					FX6-No. 6	FXs-No. 2.
Illinois Terminal R. R			FX1-No. 19		FX6-No. 7	
Illinois Valley Belt R. R						FXs-No. 1.
Indiana Harbor Belt R. R		FX1-No. 28		FXs-No. 1	FX6-No. 7	FXs-No. 2.
Indianapolis Southern R. R			FX1-No. 40	FXs-No. 2	FX6-No. 7	FXs-No. 4.

International & Gt. Northern R. R.				FX8-No. 7	FX8-No. 8	FX8-No. 2.
Iola & Northern R. R.				FX8-No. 3	FX6-No. 3	FX8-No. 2.
Iowa Central R'y			FX1-No. 19.	FX8-No. 2	FX6-No. 5. (Corrected)	
Iowa & St. Louis R'y				FX8-No. 3	FX6-No. 4	FX8-No. 2.
Ironton R. R.	FX1-No. 3					
Jamestown, Chautauqua & Lake Erie R. R.		FX1-No. 22.		FX8-No. 1		FX8-No. 5.
Kalamazoo, Lake Shore & Chicago Ry.		FX1-No. 12.			FX6-No. 8	FX8-No. 2.
Kanawha & Michigan R'y		FX1-No. 8.		FX8-No. 1	FX6-No. 7	FX8-No. 4.
Kane & Elk R. R.	FX1-No. 7					
Kanona & Prattsburg R'y	FX1-No. 4					
Kansas City, Clinton & Springfield Ry.				FX8-No. 4	FX6-No. 4	FX8-No. 11.
Kansas City, Mexico & Orient R'y.				FX8-No. 5	FX6-No. 1	FX8-No. 2.
Kansas City, Mexico & [illegible] Ry. of Texas				FX8-No. 7	FX6-No. 2	FX8-No. 1.
Kansas City Southern R'y.				FX8-No. 6	FX8-No. 7	FX8-No. 1.
Kansas Southwestern R'y.			FX1-No. 7.		FX6-No. 4	
Kewaunee, Green Bay & Western R. R.				FX8-No. 3	FX6-No. 3	FX8-No. 2.
La Crosse & Southeastern R'y.					FX6-No. 3	FX8-No. 1.
Lake Charles & Northern R. R.						FX8-No. 1.
Lake Erie, Alliance & Wheeling R. R.		FX1-No. 16.		FX8-No. 2	FX6-No. 14	FX8-No. 6.
Lake Erie & Western R. R.		FX1-No. 30.		FX8-No. 2	FX6-No. 11.	FX8-No. 6.
Lake Michigan Car Ferry Transp. Co.		FX1-No. 15.		FX8-No. 4	FX6-No. 5	FX8-No. 1.
Lakeside & Marblehead R. R.		FX1-No. 10.				
Lake Shore & Michigan Southern R'y		FX1-No. 36.		FX8-No. 2	FX6-No. 14.	FX8-No. 6.
Lake Superior & Ishpeming R'y.					FX6-No. 8	FX8-No. 1.
Leavenworth & Topeka R'y.			FX1-No. 17.	FX8-No. 2	FX6-No. 6	
Lehigh & Hudson River R'y.	FX1-No. 9.			FX8-No. 1		
Lehigh & Lackawanna R. R.	FX1-No. 16.			FX8-No. 1		
Lehigh & New England R. R.	FX1-No. 16.			FX8-No. 1		
Lehigh Valley R. R.	FX1-No. 4			FX8-No. 1		FX8 No. 12.
Litchfield & Madison R'y.						FX8-No. 8
Little Falls & Dolgeville R. R.	FX1-No. 2					
Little Rock & Hot Springs Western R. R.						FX8-No. 3 (Corrected)
Little Rock & Monroe R'y.						FX8-No. 1.
Long Island R. R.	FX1-No. 10.					
6821 Lorain & West Virginia R'y.		FX1-No. 82.			FX6-No. 27.	
Louisiana & Arkansas R'y.				FX8-No. 6	FX6-No. 5	FX8-No. 2
Louisiana & Pacific R'y (operated by Shreveport, Alexandria & Southwestern R'y System)						FX8-No. 1.
Louisiana Railway & Navigation Co.				FX8-No. 3	FX6-No. 5	FX8-No. 1.
Louisiana Western R. R.			FX1-No. 14.	FX8-No. 4	FX6-No. 6	
Louisville & Nashville R. R.				FX8-No. 3	FX6 No. 12.	FX8-No. 2.
Louisville, Henderson & St. Louis Ry.		FX1-No. 28.			FX6-No. 11.	FX8-No. 2.
Maine Central R. R.	FX1-No. 14.			FX8-No. 3		FX8-No. 3
Main Coast Co. (Maine Coast Transportation Co.)						FX8-No. 2.
Maine Steamship Co.						FX8-No. 2.
Mallory Steamship Co.			FX1-No. 28.	FX8-No. 1 (Corrected).		
Manchester & Oneida R'y.						FX8-No. 2.
Manistee & Grand Rapids R. R.		FX1-No. 30.				FX8-No. 4.
Manistee & Northeastern R. R.		FX1-No. 30.				

Participating carriers—Continued.

Name of carrier.	Powers of attorney.			Concurrences.		
	To C. W. Bullen.	To J. F. Tucker.	To R. H. Countiss.	To carriers for which C. W. Bullen is agent.	To carriers for which J. F. Tucker is agent.	To carriers for which R. H. Countiss is agent.
Manistique & Northern R. R.						
Manufacturers Junction R'y		FX1-No. 10.				
Marietta, Columbus & Cleveland R. R.						FX8-No. 1.
Mariette, Tomahawk & Western R'y		FX1-No. 23.				
Marquette & Southeastern R'y					FX6-No. 7.	
Maryland & Pennsylvania R. R.					FX6-No. 4.	FX8-No. 3.
Maryland, Delaware & Virginia R'y	FX1-No. 4				FX6-No. 7.	FX8-No. 4.
Memphis, Paris & Gulf R. R.	FX1-No. 4			FX8-No. 1.		
Merchants & Miners Transportation Co.						
Merchants' Lighterage Co.						FX8-No. 1.
Metropolitan Steamship Co.						FX8-No. 1.
Michigan Central R. R.						FX8-No. 116.
Middlesex Transportation Co.		FX1-No. 37.		FX8-No. 2.	FX6-No. 10.	FX8-No. 1.
Midland Valley R. R.			FX1-No. 13.			FX8-No. 3.
Mineral Point & Northern R'y				FX8-No. 4.	FX6-No. 3.	FX8-No. 2.
Mineral Range R. R.						FX8-No. 1.
Minneapolis & St. Louis R. R.						FX8-No. M. R. 1.
Minneapolis, St. Paul & Sault Ste. Marie R'y			FX1-No. 11.	FX8-No. 2	FX6-No. 5	
Mississippi Central R. R.			FX1-No. 11.	FX8-No. 2	FX6-No. 3.	
Mississippi River, Hamburg & Wa. Ry.						
Missouri & North Arkansas R. R.						FX8-No. 7.
Missouri, Kansas & Texas R'y						FX8-No. 1.
Missouri, Kansas & Texas Ry. of Texas			FX1-No. 14.	FX8-No. 2	FX8-No. 1	FX8-No. 1.
Missouri, Oklahoma & Gulf Ry.			FX1-No. 14.	FX8-No. 2	FX8-No. 1.	
Missouri Pacific R'y						
Mobile & Ohio R. R.			FX1-No. 60.			FX8-No. 1.
Mobile, Jackson & Kansas City R. R.			FX1-No. 36.	FX8-No. 10.	FX8-No. 8.	
Monongahela Connecting R. R.					FX6-No. 8.	
Monongahela R. R.						FX8-No. 4.
Montour R. R.	FX1-No. 19.			FX8-No. 2		FX8-No. 1.
Montpelier & Wells River R'y		FX1-No. 6.		FX8-No. 1.		
Morgan's Louisiana & Texas R. R. & S. S. Co.	FX1-No. 6.					
Morgantown & Kingwood R. R.				FX8-No. 3.		
Morristown & Erie R. R.	FX1-No. 6.		FX1-No. 14.	FX8-No. 4.	FX6-No. 6.	
Moshassuck Valley R. R.	FX1-No. 7.					
Munising R'y	FX1-No. 3.					
Murray's Line						FX8-No. 775.
Muscatine North & South R'y					FX6-No. 7.	FX8-No. 4.
			FX1-No. 12.	FX8-No. 3.	FX6-No. 4.	FX8-No. 1.

Mt. Jewett, Kinzua & Riterville R'y	FX1-No. 4				
Narragansett Pier R. R.					FX8-No. 1.
Nashville, Chattanooga & St. Louis Ry.				FX6-No. 7	FX8-No. 2.
Natchez & Louisiana Ry. Transfer Co.					FX8-No. 2.
Natchez & Southern R'y.					FX8-No. 1.
Natchez & Western R'y.					FX8-No. 3.
Nevada & California R'y.				FX6-No. 6	FX8-No. 5.
Newark Despatch Boat Line					FX8-No. 2.
Newark Express & Transportation Co.					FX8-No. 15.
Newark & Marion R'y.	FX1-No. 4				
New England Navigation Co.			FX8-No. 3		FX8-No. 4.
New Jersey & New York R. R.	FX1-No. 2		FX8-No. 1		
New Jersey & Pennsylvania R. R.	FX1-No. 5				
6822 New Mexico Central R. R.			FX8-No. 4	FX8-No. 3	FX8-No. 2.
New Orleans & Northeastern R. R.			FX8-No. 5	FX6-No. 7	FX8-No. 6.
New Orleans & Northwestern R. R.					FX8-No. 2.
New Orleans Great Northern R. R.					FX8-No. 3.
Newport & Wickford Ry. & S. S. Line					FX8-No. 1.
New York & Albany Transportation Co.					FX8-No. 6.
New York & Baltimore Trans. Line					FX8-No. 33
New York & Hastings Steamboat Co.					FX8-No. 1.
New York & Hudson Steamboat Co.					FX8-No. 26.
New York & Long Branch R. R.	FX1-No. 4		FX8-No. 1		
New York & Ottawa Ry.			FX8-No. 1		FX8-No. 4.
New York & Pennsylvania Ry.	FX1-No. 6		FX8-No. 1		
New York Central & Hudson R. R. R.	FX1-No. 4		FX8-No. 2		FX8-No. 11.
New York, Chicago & St. Louis R. R.		FX1-No. 23.	FX8-No. 2	FX6-No. 9	FX8-No. 6.
New York, New Haven & Hartford R. R.	FX1-No. 7		FX8-No. 1		FX8-No. 5.
New York, Ontario & Western Ry.	FX1-No. 6		FX8-No. 2		
New York, Philadelphia & Norfolk R. R.	FX1-No. 3		FX8-No. 2		FX8-No. 9.
New York, Susquehanna & Western R. R.	FX1-No. 2		FX8-No. 1		
Niagara, St. Catherines & Toronto Nav. Co.		FX1-No. 17.	FX8-No. 2		{FX8-No. 4. FX8-No. 6.
Niagara, St. Catherines & Toronto Ry.		FX1-No. 17.	FX8-No. 2		{FX8-No. 4. FX8-No. 6.
Norfolk & Southern Ry.					FX8-No. 4.
Norfolk & Western Ry.		FX1-No. 61.	FX8-No. 4		{FX8-No. 11. FX8-No. 8.
Norfolk & Washington (D. C.) Steamboat Co.					FX8-No. 1.
Northampton & Bath R. R.	{FX1-No. 74 (corrected).				
Northern Central Ry.	FX1-No. 1		FX8-No. 4		FX8-No. 11.
Northern Michigan Transportation Co.		FX1-No. 23.		FX6-No. 5	FX8-No. 1.
Northern Ohio Ry.		FX1-No. 30.		FX6-No. 11	FX8-No. 6.
Northern Pacific Ry.		FX1-No. 11.	FX8-No 1	FX8-No. 2	
North Pacific Steamship Co					FX8-No. 1.
Northport Steamboat Co.					FX8-No. 100.
Northwestern Pacific R. R.			FX8-No. 6	FX6-No. 2	FX8-No. 2.
Norwich & New York Propeller Co.					FX8-No. 1.
Ocean Steamship Co. of Savannah					FX8-No. 3.
Oklahoma Central Ry.					FX8-No. 206.
Old Dominion Steamship Co					FX8-No. 2.

Participating carriers—Continued.

Name of carrier.	Powers of attorney.			Concurrences.		
	To C. W. Bullen.	To J. F. Tucker.	To R. H. Countiss.	To carriers for which C. W. Bullen is agent.	To carriers for which J. F. Tucker is agent.	To carriers for which R. H. Countiss is agent.
Opelousas, Gulf & Northeastern Ry.						
Orange & Northwestern R. R.					FX6-No. 3	FX8-No. 2
Oregon R. R. & Navigation Co.			FX1-No. 5	FX8-No. 6	FX6-No. 3	FX8-No. 2
Oregon Short Line R. R.			FX1-No. 34	FX8-No. 1	FX6-No. 2	
Ottawa & New York Ry.				FX8-No. 1	FX6-No. 3	
Ouachita Valley Ry.				FX8-No. 1		
Pacific Coast Steamship Co.						FX8-No. 4
Paris & Great Northern R. R.				FX8-No. 2	FX6-No. 2	FX8-No. 1
Pecos & Northern Texas Ry.				FX8-No. 2	FX6-No. 7	FX8-No. 1
Pecos River R. R.			FX1-No. 17		FX6-No. 6	FX8-No. 1
Pemberton & Highlatown R. R. (Union Transportation Co., Lessee)	FX1-No. 43		FX1-No. 17	FX8-No. 2	FX6-No. 6	
Pennsylvania Co.						
Pennsylvania R. R.	FX1-No. 7	FX1-No. 32		FX8-No. 1	FX6-No. 9	FX8-No. 4
Peoria & Pekin Union Ry.				FX8-No. 4		FX8-No. 11
Peoria Ry. Terminal Co.				FX8-No. 2	FX6-No. 4	FX8-No. 1
Pere Marquette R. R.		FX1-No. 23		FX8-No. 1	FX6-No. 5	(FX8-No. 4
Pere Marquette Line Steamers		FX1-No. 10				(FX8-No. 5
Perla Northern R. R.		FX1-No. 22		FX8-No. 1	FX6-No. 7	FX8-No. 3
Perris & Lake View Ry.				FX8-No. 1	FX6-No. 7	FX8-No. 4
Philadelphia, Baltimore & Washington R. R.			FX1-No. 17	FX8-No. 2	FX6-No. 6	FX8-No. 308
Philadelphia & Reading Ry.	FX1-No. 1			FX8-No. 4		
Pittsburgh, Chartiers & Youghiogheny Ry.	FX1-No. 1			FX8-No. 1		FX8-No. 11
Pittsburgh, Cincinnati, Chicago & St. Louis Ry.		FX1-No. 13				
Pittsburgh & Lake Erie R. R.		FX1-No. 42				
Pittsburgh, Lisbon & Western R. R.		FX1-No. 21		FX8-No. 1	FX6-No. 10	FX8-No. 5
Pittsburgh & Moon Run R. R.		FX1-No. 22		FX8-No. 1	FX6-No. 6	
Pittsburg, Shawmut & Northern R. R.		FX1-No. 6		FX8-No. 1		FX8-No. 9
Pontiac, Oxford & Northern R. R.	FX1-No. 4					
Portland & Boothbay S. S. Co.		FX1-No. 23		FX8-No. 3		
Port Chester Transportation Co.						FX8-No. 17
Prescott & Northwestern R. R.						FX8-No. 1
Quanah, Acme & Pacific R'y. Co.					FX6-No. 4	FX8-No. 1
Quincy, Omaha & Kansas City R. R.						FX8-No. 1
Railway Valley Co.				FX8-No. 3	FX6-No. 4	FX8-No. 2
Rapid R. R.						FX8-No. 8
Raritan River R. R.		FX1-No. 15		FX8-No. 1		FX8-No. 4
Reynoldsville & Falls Creek R. R.	FX1-No. 6					
Richmond Belt Ry.	FX1-No. 3					
				FX8-No. 7	FX6-No. 8	FX8-No. 6

Richmond, Fredericksburg & Potomac R. R.	FX1-No. 21			FX8-No. 3		FX8-No. 7.
Rio Grande & Eagle Pass R'y						FX8-No. C47.
Rock Island Southern R. R.						FX8-No. 110.
Roscoe, Snyder & Pacific R'y						FX8-No. 4.
Rutland R. R.	FX1-No. 4			FX8-No. 2		FX8-No. 7.
St. Johnsbury & Lake Champlain R. R.	FX1-No. 8			FX8-No. 2		FX8-No. 7.
St. Joseph & Grand Island R'y				FX8-No. 3	FX6-No. 4	FX8-No. 4.
St. Lawrence & Adirondack R'y	FX1-No. 1					FX8-No. 3.
St. Louis & Hannibal R'y					FX6-No. 7	FX8-No. 3.
St. Louis & San Francisco R. R.		FX1-No. 32		FX8-No. 3	FX6-No. 7	
St. Louis, Brownsville & Mexico R'y				FX8-No. 3	FX6-No. 3	FX8-No. 2.
St. Louis, El Reno & Western R'y					FX6-No. 3	FX8-No. 2.
St. Louis, Iron Mountain & Southern Ry		FX1-No. 61		FX8-No. 11	FX8-No. 9	
St. Louis, Kansas City & Colorado R. R.		FX1-No. 23		FX8-No. 4	FX6-No. 15	
St. Louis Merchants Bridge Termi Ry				FX8-No. 4	FX6-No. 5	FX8-No. 2.
St. Louis, San Francisco & Texas R'y				FX8-No. 3	FX8-No. 4	FX8-No. 2.
St. Louis Southwestern R'y				FX8-No. 8	FX8-No. 9	FX8-No. 10.
St. Louis Southwestern Ry. Co. of Texas				FX8-No. 6	FX6-No. 3	FX8-No. 4.
St. Louis, Watkins & Gulf R'y					FX6-No. 4	FX8-No. 2.
St. Paul & Des Moines R. R.				FX8-No. 4	FX6-No. 5	FX8-No. 1.
San Antonio & Aransas Pass R'y						FX8-No. 4.
San Diego Cuyamaca & Eastern R'y				FX8-No. 4	FX6-No. 3	FX8-No. 2.
San Diego Southern R'y				FX8-No. 1	FX6-No. 1	FX8-No. 1.
Sandy River & Rangeley Lakes R. R.	FX1-No. 1					
San Pedro, Los Angeles & Salt Lake R. R.		FX1-No. 15		FX8-No. 3	FX6-No. 3	
Sanguerties & New York Steamboat Co.						FX8-No. 6.
Seaboard Air Line R'y						FX8-No. 4
Silver Lake R'y	FX1-No. 5					
Somerset R'y. Co.	FX1-No. 7					FX8-No. 3.
South Brooklyn R'y	FX1-No. 14					
Southern Indiana R'y		FX1-No. 31		FX8-No. 4	FX6-No. 8	(FX8-No. 3.
Southern Kansas R'y. of Texas						(FX8-No. 5.
South Manchester R. R.		FX1-No. 17		FX8-No. 2	FX6-No. 6	FX8-No. 5.
Southern Pacific Co.						FX8-No. 5.
Southern Pacific Co's Atlantic S. S. Lines (Morgan Line)		FX1-No. 6		FX8-No. 3	FX6-No. 9	
		FX1-No. 22		FX8-No. 1		
Southern R'y	FX1-No. C35			FX8-No. C3		(FX8-No. 2.
Southern R'y. in Mississippi		FX1-No. 15				(FX8-No. C2.
Spokane, Portland & Seattle R'y		FX1-No. 3		FX8-No. 1	FX6-No. 2	
Stanley, Merrill & Phillips R'y					FX6-No. 3	FX8-No. 1.
Starin's New Haven Line						FX8-No. 1.
Staten Island Rapid Transit R'y	FX1-No. 5					
Stephens & Condit Trans. & Forwdg Co						FX8-No. 7.
Stephenville North & So. Texas R'y						FX8-No. 1.
Stewartstown R. R.	FX1-No. 2					
Sugarland R'y						FX8-No. 1
Sunset R. R.				FX8-No. 8	FX6-No. 8	FX8-No. 1.
Susquehanna, Bloomsburg & Berwick Ry	FX1-No. 5					
Susquehanna & New York R. R.	FX1-No. 4					
Terminal R. R. Ass'n. of St. Louis				FX8-No. 4	FX6-No. 5	FX8-No. 2.
Texarkana & Ft. Smith R'y				FX8-No. 4	FX6-No. 1	FX8-No. 3.

Participating carriers—Continued.

Name of carrier.	Powers of attorney.			Concurrences.		
	To C. W. Bullen.	To J. F. Tucker.	To R. H. Countiss.	To carriers for which C. W. Bullen is agent.	To carriers for which J. F. Tucker is agent.	To carriers for which R. H. Countiss is agent.
Texas & Gulf R'y			FX1-No. 17	FX8-No. 2	FX6-No. 6	
Texas & New Orleans R. R			FX1-No. 8	FX8-No. 3	FX6-No. 4	
Texas & Pacific R'y			FX1-No. 17	FX8-No. 5	FX8-No. 7	
Texas Central R. R						FX8-No. 3.
6824 Texas City Terminal Co						FX8-No. 2.
Texas Mexican R'y. Co			FX1-No. 7			
Texas Midland R. R				FX8-No. 2	FX6-No. 2	FX8-No. 3.
Texas Southern R'y						FX8-No. 2.
Tidewater Transportation Co						FX8-No. 2.
Tionesta Valley R'y	FX1-No. 3					
Toledo & Ohio Central R'y		FX1-No. 8		FX8-No. 1	FX6-No. 7	FX8-No. 4.
Toledo, Peoria & Western R'y		FX1-No. 22		FX8-No. 1	FX6-No. 5	FX8-No. 2.
Toledo, St. Louis & Western R. R		FX1-No. 12		FX8-No. 5	FX6-No. 7	FX8-No. 3.
Toledo Terminal R. R		FX1-No. 11			FX6-No. 2	FX8-No. 7.
Toluca, Marquette & Northern R. R				FX8-No. 3	FX6-No. 3	FX8-No. 1.
Toronto, Hamilton & Buffalo R'y		FX1-No. 12		FX8-No. 1		FX8-No. 3.
Tremont & Gulf R'y					FX6-No. 7	FX8-No. 6.
Trinity & Brazos Valley R'y						FX8-No. 1.
Tuckerton R. R	FX1-No. 3					FX8-No. 4.
Union Pacific R. R			FX1-No. 9	FX8-No. 1	FX6-No. 2	
Union R. R		FX1-No. 24				FX8-No. 2.
Valley R. R. of Virginia	FX1-No. 16			FX8-No. 1		
Vandalia R. R		FX1-No. 23		FX8-No. 3	FX6-No. 9	FX8-No. 9.
Vicksburg, Shreveport & Pacific Ry				FX8-No. 5	FX6-No. 7	FX8-No. 6.
Virginian R'y		FX1-No. 7				FX8-No. 5.
Wabash R. R		FX1-No. 113		FX8-No. 1	FX6-No. 28	FX8-No. 2.
Wabash, Chester & Western R. R				FX8-No. 5	FX6-No. 7	FX8-No. 8
Wabash-Pittsburg Terminal R'y		FX1-No. 80		FX8-No. 1		FX8-No. 4.
Warner's Philadelphia & Wilmington Steam Propeller Line						FX8-No. 10.
Warren, Johnsville & Saline River Ry						FX8-No. 1.
Warren & Ouachita Valley R'y						FX8-No. 6.
Washington, Balto. & Annapolis El. R'y	FX1-No. 6					FX8-No. 1.
Washington County R'y Co	FX1-No. 7					
Washington, Potomac & Chesapeake R. R						FX8-No. 4.
Washington Southern R'y	FX1-No. 21			FX8-No. 3		FX8-No. 1.
Waterloo, Cedar Falls & Northern Ry					FX6-No. 4	FX8-No. 7.
						FX8-No. 1.

Waupaca-Green Bay R'y						FX8-No. 2.
Weatherford, Mineral Wells & Northw. Ry						FX8-No. 2.
West Jersey & Seashore R. R	FX1-No. 1.			FX8-No. 4		FX8-No. 11.
Western Maryland R. R.						
Maryland Division, East of Cumberland, Md., inclusive	FX1-No. 8.			FX8-No. 1.		
West of Cumberland, Md.				FX8-No. 1.		
Western & Atlantic R. R. (N. C. & St. L. R'y, Lessee)					FX6-No. 7	FX8-No. 2.
Western R'y of Alabama						FX4-No. 15.
West Shore R. R. (N. Y. C. & H. R. R. R. Lessee)	FX1-No. 5.			FX8-No. 2		FX8-No. 10.
West Side Belt R. R		FX1-No. 81.		FX8-No. 1		FX8-No. 11.
Wheeling & Lake Erie R. R		FX1-No. 79.		FX8-No. 1	FX6-No. 29.	FX8-No. 9.
Wichita Falls & Northwestern R'y						FX8-No. 3.
Wichita Falls & Northwestern Ry of Texas						FX8-No. 5.
Wichita Falls & Southern R'y						FX8-No. 4.
Wichita Valley R'y				FX8-No. 5	FX6-No. 5	FX8-No. 4.
Wiggins Ferry Co				FX8-No. 4	FX6-No. 7	FX8-No 8.
Wilkes-Barre & Eastern R. R	FX1-No. 2.			FX8-No. 1		
Williamsport & North Branch R. R	FX1-No. 3.					
Williams Valley R. R	FX1-No. 18.			FX8-No. 5		
Wisconsin & Michigan R'y		FX1-No. 15.		FX8-No. 4	FX6-No. 5	FX8-No. 1.
Wisconsin & Northern R. R					FX6-No. 3	FX8-No. 2.
Wisconsin Central R'y				FX8-No. 4	FX6-No. 6	FX8-No. 2.
Wood River Branch R. R						FX8-No. 5.
Yazoo & Mississippi Valley R. R			FX1-No. 42.	FX8-No. 1	FX6-No. 6	
Youngstown & Ohio River R. R		FX1-No. 19.		FX8-No. 1	FX6-No. 7	FX8-No. 2.
Zanesville & Western R'y		FX1-No. 10.		FX8-No. 1	FX6-No. 7	FX8-No. 6.
						FX8-No. 3.

6825 Q. How many different through routes do you estimate there are between Atlantic seaboard points and eastern territory, on the one hand, and Pacific coast points on the other, over which traffic actually moves?

A. A great many. I would say, in a general way, hundreds, if not more.

Q. I wish you would describe a number of typical through routes, not necessarily transcontinental ones, in this country.

A. Take New York to San Francisco, if you please: the New York Central, Lake Shore, C. & N. W., U. P. and S. P., form one through route. The Pennsylvania, A. T. & S. F. another.

Q. Between the same points?

A. Between the same points. Another, Baltimore & Ohio, C. B. & Q., D. & R. G., and S. P.

Q. Take New York and Portland, Oregon, and describe a couple.

A. New York to Portland, Oregon: Erie, C. M. & St. P., U. P., O. S. L., O. R. & N. Baltimore & Ohio, C. B. & Q., Northern Pacific.

Q. Take Boston and Kansas City.

A. Boston & Maine, West Shore and the Wabash.

Q. Another.

A. Boston & Albany, New York Central, Michigan Central, Chicago & Alton.

Q. Take New Orleans and St. Paul.

A. Illinois Central and C. M. & St. P. via Chicago; or the Louisville & Nashville system in connection with the Big Four, C. & N. W., and C. St. P. M. & O. Those are simply typical illustrations of routes that could be formed all over the country, of various roads connecting each with the other.

Q. In a general way, do not all the lines which reach Chicago from the west, form through routes with all the lines which reach Chicago from the east?

A. They do.

6826 Q. How many different routes does the Union Pacific exchange traffic with on the east, say traffic going through to New York, Philadelphia or Baltimore?

A. With all the lines operating between Chicago and the Mississippi River, on the one hand, and the Missouri River on the other; and they, in turn, with all the lines operating east of the Mississippi River. So we have more or less traffic with all the railroads in the country, participating in transcontinental tariffs.

Mr. DUNNE. That is, east.

Q. With what lines connecting with it at Kansas City does the Union Pacific exchange business?

A. The Missouri River, Mississippi River and Chicago lines, such as the Alton, Missouri Pacific and Santa Fe.

Q. Take those running in the direction of St. Louis.

A. Chicago & Alton, Wabash, Missouri Pacific; those are three active St. Louis lines.

Q. And they in turn, with which roads extending east from St. Louis?

A. The Big Four, Pennsylvania, and Baltimore & Ohio systems, and the lines operating via Chicago or Illinois junctions.

Q. As a matter of fact, do not all the railroads in the United States make connections with practically all other railroads in the United States for the purpose of forming through routes for the transportation of freight and passengers?

A. They do.

Q. State whether or not the El Paso and Southwestern and the Delaware & Hudson River railroads, form links in a through route between El Paso and Montreal?

Mr. SEVERANCE. You don't mean "Southwestern;" you mean El Paso and Northeastern, don't you? You said "El Paso and Southwestern."

Mr. LOOMIS. That was my intention.

6827 Mr. SEVERANCE. No, you are mistaken; it is the El Paso and Northeastern you mean. Isn't that right?

WITNESS. I always call it the El Paso & Southwestern system, or sometimes, the Phelps-Dodge system.

Mr. SEVERANCE. The Phelps-Dodge system runs west from El Paso and not up to the Rock Island; it runs west to Benson, in connection with the Southern Pacific at Benson.

Mr. LOOMIS. Well, let us have no dispute about that.

WITNESS. My understanding is that the El Paso and Southwestern interests, as interpreted by you, do control rails from El Paso to the northeast, up to and including Santa Rosa; and in that sense I speak of the El Paso and Southwestern as running southwest from Santa Rosa to El Paso, being the Rock Island's connecting link for traffic to, from and via El Paso.

Mr. DUNNE. They are both Phelps-Dodge roads, aren't they?

WITNESS. I have so understood. Now, I had in mind a through route—as I understand, you wish a through route of which the Delaware & Hudson and the El Paso & Southwestern may be links?

Q. Yes, sir.

A. Take the route from Boston, if you please, to El Paso: The Boston & Maine, Delaware & Hudson, the Erie, the Rock Island, and the El Paso & Southwestern, would form such a through route; and both of those lines would be links in that chain.

Q. State whether or not the Colorado Midland forms a link in through routes between the Atlantic and Pacific.

A. It does, in connection with all railroads; Grand Junction, Colorado and west on the one hand, and Colorado Springs and east on the other.

Q. Are the Philadelphia & Reading and the Colorado
6828 Midland links in the same through route?

A. They are.

Q. The Boston & Albany and the Chicago & Alton?

A. They are.

Q. The Colorado & Southern and the Pere Marquette?
A. Yes.

Cross-examination by Mr. SEVERANCE.

Q. The lines that you have described, several hundred in number, making up these through routes, are, most of them, east of the Missouri River, are they not?
A. Yes, sir.
Q. What are the lines west of the Missouri River to California points included in that long list that you have mentioned?
A. I had in mind the carriers east of the Missouri River, almost entirely, as participating with the lines west thereof, in forming these through routes.
Q. There are a very few lines west of the river, aren't there?
A. Comparatively few.
Q. So it won't be necessary to state them all?
A. No.
Q. Because they are all shown on the map?
A. That is true.
Q. But they are very few in number?
A. Comparatively few.
Q. And these through routes that you have mentioned are occasioned by the fact that up to the river, and particularly up to Chicago and the Mississippi, there are a great number of lines that participate in this business; that is true, isn't it?
A. That is true.
Q. The lines that deliver traffic at the Pacific Ocean are the Canadian Pacific, Great Northern, Northern Pacific, recently the St. Paul, the O. R. & N., the Southern Pacific, Santa Fe
6829 and San Pedro; that is correct, isn't it?
A. I think that is a correct list.
Q. Of those lines, your company works chiefly with the Southern Pacific and the San Pedro, doesn't it?
A. Yes.
Q. And the O. R. & N.
A. You are talking about California traffic?
Q. Pacific coast traffic.
A. Yes, that is right.
Q. The rates that are set forth in the tariff introduced as Defendant's exhibit 60 are made by the transcontinental freight bureau, I assume?
A. What we call bureau rates.
Q. What companies participate in the making of the rates, outside of companies that concur? What are the companies that participate in making these rates?
A. The rates, largely, are made by conference at stated periods, regular meetings, at which practically all lines interested are invited to be present. As a matter of fact, the rates are made by the lines

west of Chicago, very largely; and we have a minimum but growing representation at every meeting, now, of the eastern lines; and I might even go further and say they are made very largely by lines west of the Missouri River, because there are several lines between Chicago and the river that, while they can come, do not as a rule attend those meetings—leave the question in the hands of the western roads.

Q. That is what I was getting at. As a practical matter, those rates are made by conference between the west of the Missouri River lines, are they not?

A. I think that is true, very largely; concurred in by the others, I may add, in connection with that, that in the case of California, of course we recognize the Southern Pacific as of controlling force
6830 in our rates from New York, and the Atchison from Chicago; and the divisions of revenue west of Chicago are such (namely 15 per cent east and 85 per cent west of Missouri River) that the Chicago lines feel, as a rule, that their interests are well taken care of by the lines that are interested in the greater revenue.

Q. That is, the lines are satisfied that the roads west of the Missouri River will not be apt to put in unremunerative rates, when they have such a large percentage of the revenue from those rates?

A. That is the idea.

Q. And that is the reason why, as you said, the making of the transcontinental rates is practically left to the west of Missouri River lines?

A. Yes.

Q. At those meetings, do you ordinarily represent your company?

A. I did at the last one, and endeavor to whenever I can; but I personally have not been present very much during the last three years.

Q. Who represents you when you are not present?

A. Usually I send one of my assistants.

Q. Who represents the San Pedro at those meetings—the Union Pacific organization?

A. No, their traffic department; Mr. Sloane, the general freight agent, generally is there; sometimes Mr. Wann, general traffic manager. It would be the exception when they would give us their proxy.

Q. Are the transcontinental rates the same to Los Angeles over the Union Pacific and San Pedro lines that they are over the Union Pacific and Southern Pacific?

A. They are.

Q. Both lines participate in that business?

A. They do.

Q. The San Pedro has no rates into San Francisco has it?
6831 They form no part of a line into San Francisco, do they?

A. No.

Q. You are familiar with the San Pedro business, I understand?

A. Somewhat.

Q. In east bound business from Southern California, which route do you work with preferentially—the San Pedro or the Southern Pacific?

A. The San Pedro is the Union Pacific's preferential route for Southern California traffic, both east and west bound.

Q. And you have been out at Los Angeles yourself, at times, soliciting that traffic over the San Pedro, haven't you?

A. I have solicited it, yes sir.

Q. In connection with the Union Pacific?

A. Yes.

Q. There is a greater revenue to the Union Pacific by routing it that way, isn't there?

A. Yes. I say "greater revenue;" sometimes that might or might not be true as a unit in cents per hundred; but we have felt that the conditions attending that traffic in general required our using the shortest possible route, in order to retain our share of it.

Q. The Southern Pacific have a traffic organization in Los Angeles, haven't they?

A. They have.

Q. And they seek that same business?

A. They do.

Q. And when you, representing the Union Pacific, are there with the San Pedro soliciting that traffic, you are doing it in competition with the Southern Pacific?

A. I am soliciting it via a through route that is competitive with other routes. In this case it would be competitive with a through route formed by the Southern Pacific, if you please, via El Paso or via Sacramento. I may add, incidentally, that the San Pedro Company has a very limited territory in Southern California.

6832 Q. Yes, I know that. I will come to that in just a moment. But what I wanted to develop is that the Southern Pacific organization at Los Angeles and in that territory is seeking the same traffic that you, in connection with the San Pedro, have solicited upon the occasion of your visits to Los Angeles.

A. Yes, I admit this: That a shipment, say at Los Angeles proper, and which we would solicit for San Pedro-Union Pacific transportation, we would be working against all competitors, one of them the Southern Pacific from Los Angeles via El Paso.

Q. Via El Paso, or via Ogden?

A. Via Ogden we are a connection——

Q. You are, but the San Pedro is not?

A. The San Pedro is not.

Q. The San Pedro is a competitor of the Southern Pacific as far as Ogden, isn't it?

A. No, the San Pedro does not reach Ogden; it reaches Salt Lake.

Q. Well, Salt Lake; it is the same thing. It is a Utah common point?

A. Yes, it is a common point, but it is not directly reached by the San Pedro rails.

Q. Well, that is technical.

A. Well, I want to be accurate on it.

Q. I know you do. The rates are just the same to Salt Lake and Ogden, aren't they?

A. They are, yes.

Q. So that we will thoroughly understand each other—on the occasion of these visits which it appears by the testimony you have made to Los Angeles in soliciting citrus fruit movements, vegetable traffic, and that sort of thing to the east, in connection with the San Pedro, your efforts have been competitive with the Southern Pacific, as against the Southern Pacific's line?

6833 A. In part, but in reality more against other lines.

Q. I know. You may have kind words for the Southern Pacific. I presume you don't abuse them very much. But the traffic that you were seeking to route by the San Pedro and the Union Pacific was traffic that the Southern Pacific organization at Los Angeles and vicinity was also seeking to get, wasn't it, either by El Paso or Sacramento?

A. Now, I will have to modify a little bit of that.

Q. All right.

A. This traffic that I was seeking especially, and about which there has been some talk made in the record, was the vegetable shipments, all of which had origin upon the Southern Pacific rails, and which were covered by a joint rate and a joint tariff, and we were not soliciting it, in that sense, against the Southern Pacific, because they were partners in the chain which I was seeking to have favored. So, on that particular traffic I contend I was not soliciting——

Q. You think that where the Southern Pacific gets nothing but a switching charge, they are partners with you, and where their whole interest is for the long haul do you still think they are partners in that business.

A. I think the Southern Pacific——

Q. Now, just be frank about it; I know you will.

A. I think that they are a partner, regardless of revenue, when they join in through rates and divisions. In other words, I do not think the partnership is destroyed, whether they receive a switching charge, large or small.

Q. Then, as I understand your view——

A. I am eliminating the switching charge, but——

Q. Just a moment.

Mr. DUNNE: Now, Mr. Munroe, I think Mr. Severance

6834 should permit you to answer—with all deference to him.

Mr. SEVERANCE. I started to ask a question. Mr. Munroe and I will not have any trouble; we are old friends.

WITNESS. I wanted to correct what occurred to me was possibly your idea of a switching charge. It is true that the Southern Pacific service from the celery fields to Los Angeles is comparative short; by that, I mean something less, we will say, than 50 miles. That may appear to you as a switching charge. It would not so

appear to me. In the division of the revenue, the Southern Pacific received a percentage proportion of the total revenue accruing west of the Missouri River, which pays them for the service they render, and would not be viewed as a switching charge, as we interpret it.

6835 Q. Let me ask you this question: At Los Angeles and in the country immediately adjacent thereto, there are three lines of road leading to the east—the Southern Pacific, the San Pedro, and the Santa Fe; isn't that true?

A. That is true.

Q. The Southern Pacific having a line by the Southern gateway and a line by Sacramento and Ogden?

A. Yes.

Q. Those three lines are each seeking the business from that locality, are they not?

A. Yes.

Q. And are competitors the one with the other?

A. Yes.

Q. You speak of this not being a switching charge. How is that business handled? The San Pedro is a new line down there and a great deal of their traffic necessarily comes off the lines of the other roads, doesn't it?

A. It does.

Q. What sort of an arrangement do they operate under?

A. You mean as to division of revenue west of Missouri River?

Q. Yes. I mean getting traffic, we will say, from the Southern Pacific: how do they divide it?

A. My recollection is that the Southern Pacific receive 20 per cent of the line revenue west of the Missouri River and the remainder subdivides between the Union Pacific and the San Pedro.

Q. How about business locally in Los Angeles, originating on the tracks of the Southern Pacific, on industry tracks?

A. The Southern Pacific receive revenue—I don't know just how much—for their switching service, and that is absorbed by the line, and in Los Angeles also it is customary to add a switching

6836 charge to the Los Angeles rate which follows the freight when going to industrial tracks, not team tracks. The custom there differs from that obtaining in some other parts of the country. That excess is not absorbed?

Q. Mr. Munroe, do you remember of a meeting that you attended on or about the 2nd of August, 1905, at San Francisco, at which Mr. J. Ross Clark and Mr. E. W. Gillett were present as representatives of the San Pedro, Mr. Schumacher as traffic manager of the Oregon Short Line, yourself as the freight traffic manager of the Union Pacific, and Mr. Sproule and Mr. Luce, the one freight traffic manager and the other general freight agent of the Southern Pacific, at which there was made a memorandum of understanding with reference to the handling of Southern California business?

A. Yes.

Q. Do you remember that in certain particulars that understand-

ing was changed at a conference between the same gentlemen, substantially the same ones, on the 27th of January, 1906, with reference to switching charges in Los Angeles?

A. Was I at that second conference? The first conference I recall with reasonable clearness, but I am not so sure about the second one. I do not think I was present at the second one.

Q. You knew about it, didn't you?

A. In a general way. I think that the bases originally referred to were modified or changed subsequently. My recollection is that in the first there was a percentage allowance and in the second an arbitrary one.

Q. Just look at that copy of the memorandum and see if you think that is correct. (Handing paper to witness.) Here is the original, and here are the modifications.

A. I think that is substantially correct. There is a lot of it
6827 here that we had not any interest in, so I did not pay much attention to that.

Q. You mean those figures?

A. This is the memorandum of understanding had at San Francisco, August 2, 1905, and among other things it provides that on freight traffic between all points on or via the various west of Missouri connections and the San Pedro Company, including Utah common points served by the San Pedro Company, and points on Southern Pacific and California south of Santa Barbara and Mojave and west of Banning, all inclusive, divisions west of Missouri River will be as follows: Southern Pacific industrial tracks in Los Angeles 12½ per cent, San Pedro Company and connections 87½ per cent of Los Angeles rate: all other points in California south of Santa Barbara, Mojave and west of Banning, Southern Pacific 25 per cent, San Pedro and connections 75 per cent of Los Angeles rates.

Q. Now, looking at the modification of the agreement, see if that corresponds with your understanding of the way the agreement was modified?

A. I think that is correct, but there is another modification that you evidently haven't——

Q. No, I haven't seen the other one.

A. I haven't it. I think this is the only meeting that I attended.

Q. What is the other modification?

A. My understanding is a reduction of the Southern Pacific per cents from 25 to 20 and the entire abolition of the 12½ per cent to cover the Southern Pacific switching service in Los Angeles.

Q. That is taken care of by the 2½ a car, isn't it?

A. There is the switching modification, but there has been another modification made since, I am quite sure, on the 25 per cent.

6838 Q. But aside from that you would say that this is substantially correct?

A. Substantially correct. I only attended that first meeting, so I am speaking from purest memory on it.

Q. It is your memory that this is correct?

A. I think it is correct. We can get you correct information, however, if you would like it.

Q. If there has been an additional modification I would like to get it.

A. I think there has been a modification, but I think Mr. Luce is better qualified to testify on that than I would be. We leave that very largely in the hands of our western connections. Attend meetings when we can, but when we don't, they handle.

The paper which was handed to the witness was marked Complainant's Exhibit 210 (Munroe).

Mr. SEVERANCE. As part of the cross-examination of Mr. Munroe I offer Complainant's Exhibit 210 in evidence.

Complainant's Exhibit 210 (Munroe) is as follows:

COMPLAINANT'S EXHIBIT 210.

(Munroe.)

Understanding between San Pedro and Southern Pacific Companies, of August 2nd, 1905, is changed by conference between them January 27, 1906, as follows:

A. Amend Clause 3 of said understanding as follows:

Except upon basis of added locals San Pedro Company will not join in rates to or from points north of Mojave and Santa Barbara on any traffic to or from Utah common points and east thereof, provided Southern Pacific give them the benefit of a switching
6839 rate of $2.50 per car on Los Angeles freight (within yard limits) to or from points in Colorado, Wyoming, Utah, Idaho or Montana, west and inclusive of Colorado common points and Cheyenne.

When switching charge is paid at Los Angeles by consignor or consignee, such earning shall accrue to road performing the service.

San Pedro will likewise switch for Southern Pacific Company.

B. Freight to or from industries located on tracks of San Pedro Company with origin or destination El Paso or east, will be handled by Southern Pacific on same terms as provided for like shipments to or from points beyond Salt Lake. Points west of and including Cisco and Dalhart, Texas, to be considered for this purpose as taking basis Colorado common points and west; Missouri River common points basis to govern Missouri River common points and west to but not including Cisco and Dalhart.

C. Freight to or from industry tracks on San Pedro or Southern Pacific rails at Los Angeles or Colton, having origin or destination on San Pedro Company's road north or east of San Bernardino on the one hand, and on the other on Southern Pacific's road north of Santa Barbara or Mojave in California, or east of Banning to and including El Paso, either Company will switch for the other at Los Angeles or Colton, within yard limits, for $2.50 per car in carload lots.

D. San Pedro Company will give Southern Pacific such favor and preference as it legally may for all business between
6840 points on San Pedro Company's road south or west of Salt Lake and points north of Mojave or Santa Barbara reached by Southern Pacific. Point of interchange shall be Colton. Divisions to be mutually agreed on whenever an agreed through rate is made less than the sum of the locals.

E. Southern Pacific will switch for San Pedro Company at Colton for $2.50 per car, grain and cereal products and coal from Utah, Wyoming or Idaho.

Effective March 7th, 1906.

1. Memorandum of understanding had at San Francisco on August 2nd, 1905, between:

San Pedro Los Angeles and Salt Lake Railroad Company,
Represented by Mr. J. Ross Clark, Vice-President,
Mr. E. W. Gillett, Gen'l Freight Agt.
Oregon Short Line Railroad Company,
Represented by Mr. T. M. Schumacher, Traffic Manager.
Union Pacific Railroad Company,
Represented by J. A. Munroe, Freight Traffic Manager.
Southern Pacific Company (Pacific System),
Represented by Mr. Wm. Sproule, Freight Traffic Manager.
Mr. G. W. Luce, General Freight Agent.

2. On freight traffic between all points on or via the various
6841 west of Missouri River connections of the San Pedro Company; (O. S. L., U. P., D. & R. G., etc.), including Utah common points served by the San Pedro Company, and points on Southern Pacific in California south of Santa Barbara, Mojave and west of Banning, all inclusive, divisions west of Missouri River will be as follows:

3.	South. Pac.	San Pedro Company and connections.
Southern Pacific Industrial tracks in Los Angeles	12½%	87½ % of Los Angeles rate.

4. All other points in California south of Santa Barbara, Mojave, and west of Banning, all inclusive:

	South. Pac.	San Pedro Company and connections.
	25%	75% of Los Angeles rate.

5. EXCEPTIONS:

Southern Pacific will be accorded 30% of Los Angeles rate (instead of 25% as shown) on freight traffic to or from Colorado common points and points in Colorado west thereof, including also Union Pacific stations west of Denver, to and including Granger.

6. Any excess above Los Angeles rate to accrue to Southern Pacific Company.

7. Arbitraries allowed foreign or connecting lines in Southern California are to be deducted before prorating.

8. San Pedro will admit Southern Pacific to its tracks on the same terms.

6842 9. SOLICITATION:

It is understood that while it is expected that agents will use every effort to secure business, both local and through, it is not desirable that any effort be made or continued in order to change the routing of freight which has been secured by either company; hence, when car or cars are ordered, solicitation with either shippers or consignee must cease.

10. INTERCHANGE OF EQUIPMENT:

It is understood that cars operated by either Company, and delivered to the other loaded, will be returned to the junction at which delivery was made within one hundred forty-four hours. Beyond this time a per diem charge will be made according to the per diem rule governing both roads. Empty cars, other than refrigerators, delivered to either for loading, after being placed at the station, are subject to the rules of the Company in whose possession they are and may be returned to the junction point if they are not loaded within the required length of time, or set at other stations to fill other requisitions at the option of said Company, it being further understood that should the company owning or controlling the equipment, request its return, such request shall place the cars called for under the same rules as car delivered loaded.

It is understood that at the several junction points of the lines of the parties hereto, now existing or that may hereafter exist during the continuance of this understanding, each party shall at all
6843 times interchange empty and loaded cars with the same skill, care and dispatch as bestowed on traffic of the same kind for its own account.

It is understood that requisitions for foreign cars to be placed at stations on the line of either party within the territory above described, will be made as follows: Either through the agent at shipping point, or, in case no agent, then on Division Trainmaster or Superintendent: name of shipper, destination of car and route must be given when ordered. Absolute impartiality shall be used in the matter of such requisition; that is, either party will give to the requisitions of the other the same prompt attention in receiving and filling as accorded their own.

11. DIVERSIONS FROM COMPETITIVE TO NON-COMPETITIVE POINTS:

It is understood if a diversion is permitted and made of a consignment to a through competitive point, to a non-competitive point, or vice versa, in so far as the charge for the local service of either party is concerned it shall be governed by this understanding and based on the ultimate destination of the property.

12. The basis named below for making local rates in the Southern California Territory on all commodities, will be used by either line when it is found necessary, it being understood that when any of them named below move between competitive stations in Southern California, rates shall only be made by conference between both lines.

13. SOUTHERN CALIFORNIA TERRITORY—DESCRIPTION:

All points in California south of Santa Barbara and
6844 Mojave and west of Banning, all inclusive, as per accompanying map, attached hereto, and marked Exhibit "A".

14. COMMON POINTS:

Colton, High Grove, Long Beach, Los Angeles, Narod, Ontario, Pasadena, Pomona, Riverside, San Bernardino, Spadra. These points are common on local traffic only.

15. BRICK, COMMON:

25 miles and under, 2½ cents per ton per mile, minimum 30 cents per ton. Over 25 miles, 2 cents per ton per mile, minimum 60 cents per ton.

Where actual weight cannot be obtained, charges to be assessed on estimated weight of 5,000 pounds per 1,000 brick.

16. HAY:

20 miles and under, 4 cents per ton per mile, minimum 50 cents per ton. 60 miles and over 20, 3 cents per ton per mile, minimum 30 cents per ton. 100 miles and over 60, 2½ cents per ton per mile.

17. GRAIN:

10 miles and under, 7 cents per ton per mile.

15 miles and over 10, 5½ cents per ton per mile, minimum 70 cents per ton.

20 miles and over 15, 5 cents per ton per mile, minimum 82½ cents per ton.

40 miles and over, 4 cents per ton per mile, minimum $1. per ton.

18. JUNK, carloads, as described in Western Classification:

70 miles and under, 3 c per ton per mile, minimum 50 c
6845 per ton.

70 miles and under 100, 2½ cents per ton per mile.

100 miles and over 2 cents per ton per mile.

19. CAR STAKES:

That have been used on lumber shipments from coast points to interior points will be returned free.

20. EMPTY PACKAGES FOR FRUIT SHIPMENTS:

Charge for the first movement tariff rate on the new packages. After it becomes a carrier, rate on empty carriers returning to apply

between any and all stations to which they may be shipped to be filled with fruit.

21. ICE IN REFRIGERATOR CAR ICE BOXES:

When the empty car is moved to be placed for loading, charge for the actual weight of the ice in the refrigerator ice boxes at the carload rate on ice.

22. SWITCHING:

At Los Angeles and Colton, when incident to line haul $2.50 per car. At all stations, switching between industries within the regular switching yard limits $5.00 per car.

23. EXCEPTIONS (Coal, lumber), the switching of which will be free.

Cars to Southern Pacific Company ice house, Los Angeles.

Cars to Santa Fe ice house, Los Angeles.

Cars to Salt Lake Co. ice house, Los Angeles.

6846 Live stock, excepting hogs, when switched to be weighed.

Hogs, when switched to track scales, to be weighed, $2.50 per car.

To or from Capitol Milling Company. $1.25 per car.

On oil from the Oil Storage and Transportation Company, tanks in Los Angeles yards, free.

To and from California Fruit Canners Association. Free.

To and from Pacific Electric Co. Yards. Free.

24. CLOSING HOURS AT FREIGHT SHEDS, LOS ANGELES:

Freight depots shall close for the receipt and delivery of freight daily at 4:30 o'clock P. M. during the calendar year.

25. LOCAL JOINT RATES—DIVISIONS:

Neither line's proportion of any joint local rate made hereunder will be greater than its local rate for the service rendered.

Interchange points for local freight traffic shall be Los Angeles and Colton.

Local freight to be delivered, each to the other at the nearest junction point to destination; Exceptions: Destinations where rates are made by basing on other than nearest junction point thereto, in which case delivery is to be made at the rate basing point.

It is understood that division of rates on interchanged local traffic, when rate lower than combination of locals is necessary,

6847 will be a mileage pro-rate basis, with a minimum for each line, of five cents per hundred pounds, carloads, and 10 cents per hundred pounds less than carloads, but not exceeding locals; and further, that when each company is entitled to minimum of five cents per hundred pounds, carloads, thus making $2.00 per ton, and a lower rate is necessary in order to move the traffic, as against competition, each company is to shrink its minimum in proportion that the $2.00 rate is shrunken to rate necessary, thus, if $1.00 per ton is necessary, each company's minimum will be shrunken 50% allowing each line 2½ c per hundred pounds.

Local freight rates between points within the Southern California territory as above described are to be made only by joint conference and subject to Western Classification and such amendments as may be arranged by conference between the parties hereto from time to time; Interchange shall be made of tariffs, special rate notices, rules and conditions affecting revenue or rates subject thereto.

26. Freight originating at an industry served by Southern Pacific Co. side tracks and destined to an exclusive point on the San Pedro Co. will be considered as belonging to the San Pedro Co., and will be delivered by the Southern Pacific Co. to the San Pedro line, for which service a charge of $2.50 per car will be made for switching.

27. Local freight originating at an industry served by the San Pedro Co. side tracks and destined to an exclusive point on the
6848 Southern Pacific will be considered as belonging to the Southern Pacific and will be delivered by the San Pedro Co. to the Southern Pacific, for which service a charge of $2.50 per car will be made for switching.

28. Local freight originating on the industry tracks of either party shall be understood as belonging to the line originating the business, and if destined to an industry served by the side tracks of the other party at a common local interchange point, the other party shall accept from the originating line the traffic, charging therefor $2.50 per car plus switching, when such charge is made.

29. Freight to or from an industry track served by one of the parties and not by the other, to or from local common points, for team track delivery shall be understood as belonging to the line serving the industry by side track.

30. LUMBER.—YARDING AND MILLING IN TRANSIT:

It is understood that lumber, moving from Southern California Coast Ports to Los Angeles, and reshipped thence to interior destinations within the Southern California Territory shall be charged for at the rate in force from said California Ports to final destination, no switching to be charged consignee or shipper.

31. WHARFAGE AND HANDLING CARS FOR LUMBER:

It is further understood that the rates for wharfage and handling of lumber at the Southern California ports, in so far as the
6849 parties hereto can control (and they will exercise their best efforts to regulate same), shall be not less than 60 cents per thousand feet: Lath, Shingles, Shakes and Pickets, in like ratio. Ties one cent each.

32. GENERAL WHARFAGE:

It is understood that the parties hereto, insofar as they can control, will exercise their best efforts to regulate and bring about maintenance of agreed wharfage and handling charges at all Southern California Ports.

33. ABSORPTION OF TEAM HAULS:

It is understood that neither party hereto shall absorb any portion of team haul.

34. PRIVILEGE OF MEETING OPEN COMPETITION:

Nothing in this understanding shall be construed as denying either party hereto the right in its local business to meet the rates of other carriers, either electric or steam railroads, water craft or teams, but before doing so notice thereof must reach the other party.

35. It is understood that all rates and divisions are to be unanimously concurred in by parties hereto participating in the traffic.

36. It is understood that the term industry track as used in the foregoing shall be interpreted as including all private sidings and switches within the Los Angeles Yard Limits.

37. This understanding having been unanimously concurred
6850 in by those present at conference, will take effect August 8th, 1905, and continue in effect, subject to six months' notice of cancellation by any parties hereto.

SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD CO.
By J. Ross CLARK, *Vice-President.*
SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD CO.
By E. W. GILLETT, *General Freight Agent.*
OREGON SHORT LINE RAILROAD,
By T. M. SCHUMACHER, *Traffic Manager.*
UNION PACIFIC RAILROAD COMPANY,
By J. A. MUNROE, *Freight Traffic Manager.*
SOUTHERN PACIFIC COMPANY,
By WM. SPROULE, *Freight Traffic Manager.*

N. B.—Signatures for the Oregon Short Line and the Union Pacific Railroad Companies by Messrs. Schumacher and Munroe, apply as to paragraphs one to nine, inclusive, also paragraphs thirty-five and thirty-seven.

6851 Q. Mr. Munroe, I understood you, in testifying with reference to the reasons why the Union Pacific had never deemed it advisable to attempt to work business by the Portland route, to say that the divisions had always been satisfactory to the Union Pacific on business routed through Ogden?

A. On the transcontinental traffic.

Q. That is what I mean—on the transcontinental traffic.

A. Yes.

Q. They had always remained as they were originally established?

A. Practically.

Q. 54 per cent to the Union Pacific and 46 to the Southern Pacific on San Francisco business?

A. Yes.

Q. It is more expensive per mile to handle traffic west of Ogden than east, isn't it, as between the Missouri River and California, on account of the climb over the Sierra Nevadas?

A. I have no doubt that is true as to service over the Sierra Nevadas. At the same time the Union Pacific has had difficulties of its own, especially in Wyoming, and we have always felt that a

mileage pro rate as between the Union Pacific and Southern Pacific east and west of Ogden, respectively, on Missouri River revenue, to the California terminals, was a reasonable arrangement and certainly fair to our interests.

Q. That is what Mr. Stubbs testified to. He said he thought it was more than fair to the Union Pacific.

A. Well, we have no fault to find with it.

Q. That is what I thought. Never did have, did you? Never complained of it or tried to change it?

A. I never heard of any complaint.

6852 Q. Mr. Munroe, I am sure you want to be accurate in your statements, and you said that the line from Portland to Ogden was 650 miles longer by the Shasta Route and Sacramento than by the Short Line and O. R. & N. Mr. Miller testified in Portland that the distance by Sacramento is 1382 miles and by O. R. & N. and Short Line 885 miles, making a difference of 497 instead of 650. Don't you think he is right about it?

A. I would not wish to discredit his figures. My statement was general to the effect that it was about 650 miles longer from Omaha via the Shasta Route to Portland than by our line via Granger.

Q. Oh. I didn't understand you.

A. I was referring to our own line via the Shasta Route and the additional service we had to perform with our connection via Granger.

Q. Oh. I understood you were testifying as to the difference from Ogden.

A. No; I was referring to the through route.

Q. Of course you have a cut-off from Granger to Pocatello, that cuts off two sides of the triangle. Is that what you had in mind?

A. I had that in mind, yes. I would be very glad to give you the exact figures if you desire them.

Q. Of course they can be obtained, but I thought you misspoke and I called your attention to it for that reason.

A. Thank you.

Q. You agree with Mr. Stubbs, do you not, that if rates were put down to San Francisco via Portland it would cause a break in the rates all along the line—the cut would be met by the other lines?

A. Yes.

6853 Q. You stated that the Union Pacific would suffer greatly in loss of revenue by that. The other lines would likewise if the rates were cut, wouldn't they?

A. All would suffer.

Q. All would suffer.

A. But that loss of revenue would obtain so far as the Union Pacific were concerned, if the rates were not cut, because they would deflect the traffic.

Mr. DUNNE. When you say "they would deflect the traffic," whom do you mean?

WITNESS. The Southern Pacific.

Q. Now, you testified as to the fact that the Union Pacific originally owned what is now the Colorado & Southern?

A. Yes.

Q. And as the owner of that line of road reaching from Fort Worth to Denver, it formed a part of the Gulf route to Denver?

A. Yes.

Q. Did the Union Pacific build that line, or buy it?

A. They did not build it. It was practically completed about the time they had these negotiations, and merged into the U. P. D. & G. General Dodge was one of the leading factors, and we did not have anything to do with the building of it south of Denver. Of course the Union Pacific interests built the other lines which formed the component parts of the whole of the U. P. D. & G.

Q. You stated that in 1893, I believe, the Union Pacific lost that line?

A. Yes; December 18, 1893.

Q. And they have never had it since?

A. No, with the exception of the Julesburg branch.

Q. Yes, I know; but I mean forming part of the Gulf route.

A. Oh, yes.

Q. They have never owned that since, or had control of it?

A. No.

6854 Q. And therefore, from December, 1893, the interest of the Union Pacific on business from New York common points, whether by broken water and rail lines or all-rail, was entirely by the Missouri River, wasn't it?

A. Yes.

Q. And was in opposition to the interests of the Gulf route?

A. Yes. We had what might be termed a miniature Gulf route, but it was not active enough to be worthy of much recognition.

Q. I mean your interests were opposed to the lines through New Orleans and Galveston?

A. We were in favor of the lines via the Missouri River. We did have a line via Galveston with the M., K. & T. and Junction City.

Q. Yes, but no traffic moved over it?

A. It was a small factor, hardly worthy of recognition.

Q. It was much out of the way to go up to Junction City from Galveston?

A. Well, you would be surprised. It made a better comparison than the Shasta line did up to Portland.

Q. It did?

A. Yes.

Q. But it did not in the way of getting business, did it?

A. Well, the M., K. & T. had other connections, too.

Q. Yet it is a fair statement, isn't it, that after you lost the control of the Southern, you worked your business through the Missouri River?

A. Yes.

Q. And the Southern Pacific people worked theirs by the Gulf?

A. Yes.

Q. I am speaking of, to Utah and common points.

A. Yes. My answer refers especially to Colorado, because the Union Pacific was part and parcel and an active member of
6855 the through line via the Gulf and Denver to the Utah common points—always has been and is today.

Q. But Mr. Hawley testified that the bulk of the movement to Utah common points, that the Southern Pacific participated in, went by the Denver & Rio Grande, previous to the merger.

A. There were times when that was undoubtedly true. We always participated in that business, to a greater or less extent.

Q. But your interest was to get the long haul from the Missouri River, of course?

A. That is our traffic interest, but we have always worked a great deal with that Gulf route, and are doing it today.

Q. You are doing it today, unquestionably, but you are rather friendly in every way with the Southern Pacific at present, aren't you?

A. Why, we like them.

Q. I thought so.

A. But now—I don't know that you care for it——

Mr. SEVERANCE. Well, I will ask for what I care for, Mr. Munroe. You have been very frank and have answered my questions very frankly.

Redirect examination by Mr. LOOMIS:

Q. Speaking of the roads leading into California, with which the Union Pacific works, counsel asked if the U. P. worked chiefly with the Southern Pacific and San Pedro. First I will ask you if the San Pedro was in operation in 1901.

A. It was not.

Q. When was it first put in operation?

6856 A. May, 1905, according to my recollection.

Q. In the spring of 1901, and prior thereto, state whether or not the Union Pacific worked with any road on California business other than the Southern Pacific.

A. The Southern Pacific was practically the exclusive connection of the Union Pacific at that time for California business.

Q. It worked practically all of its business by the Southern Pacific?

A. It did.

Q. That road afforded it the only entrance it had to California, practically?

A. It did.

Q. You spoke about the Southern Pacific dominating the rate situation and the traffic situation generally on business from the Atlantic seaboard to California points. Explain briefly why that was so.

A. They had their own line under one common control and man-

agement from New York to San Francisco and were able to take action without conference with any partners.

Q. Were they deferred to on these matters because of their strength in California, or was it simply because they got such a large portion of the revenue on the business, as intimated by counsel on cross-examination?

A. They were deferred to because they were in direct touch with the situation, and our observation was that they were conservative in their efforts for revenue and handled business wisely and that they were better acquainted with it than anybody not on the ground would be.

Q. Were they in a position to dominate that situation regardless of the size of the division which the lines west of the Missouri River obtained?

A. They had the rate-making power, of course, to themselves
6857 exclusively. They would make a rate and it would then be a question for the other lines to meet it or not, as they might elect.

Q. And the extent of the division of the lines west of the Missouri River had nothing to do with their power over the situation?

A. No.

Q. Counsel asked you a question about each of the lines reaching Southern California at the present time being a competitor with each of the other lines. I wish you would state what your answer was intended to include, as competing lines from Southern California.

A. The strong competitor in Southern California of the Union Pacific we regard, first, the Santa Fe road, controlling, as they do, the rails from Chicago to Southern California direct. Next we regard the Rock Island and the Phelps-Dodge interest via El Paso. Then we have competition, so far as the Union Pacific is concerned, with the various connections of the Southern Pacific at Ogden, if you please.

Q. What I had in mind was this: taking the three lines which enter Southern California: which of those lines do you regard as competitive lines? How are they made up?

A. The Atchison is the competitive line because the Union Pacific is a connection of each of the others.

Q. The Atchison is one. What is the other competitive line?

A. The through route is the Southern Pacific by way of El Paso, the Rock Island interests and the Phelps-Dodge interests.

Q. Then, the Southern Pacific by El Paso and its connections would be the second competitive route?

A. Yes.

6858 Q. Which would be the third competitive route?

A. The San Pedro in connection with the D. & R. G.

Q. Those were the three competitive routes you had in mind in answering the questions of counsel?

A. Those are the ones that occurred to me.

Mr. SEVERANCE. He didn't include the Union Pacific and San Pedro.

Q. What about the Union Pacific and San Pedro, as counsel suggests?

A. The San Pedro-Union Pacific formed one line.

Mr. SEVERANCE. That is another competitive line.

WITNESS. That is the through competitive route.

Q. Speaking about the reasons why the Union Pacific did not attempt to use the boat line from Portland to San Francisco for through business from points east of Colorado, counsel asks in regard to the divisions with the Southern Pacific being satisfactory. I will ask you to state if the fact that the divisions were satisfactory and the relations with the Southern Pacific were satisfactory, were the only reasons why you said that the route was an impracticable one?

A. Oh, no. The question of our having unsatisfactory relations with the Southern Pacific never arose at all. The only point that influenced us was that we could not make a success of that roundabout route, and our view was subsequently confirmed by our later experience in trying to operate the all-rail line from Omaha via the Shasta route to Portland; and, if we could not make that a success on all-rail service, we could hardly expect to make broken service in the opposite direction a success.

Q. If you could have made more revenue and made the route
6859 pay via Portland and the San Francisco line, you would have worked business that way regardless of your relations with the Southern Pacific?

A. Certainly. If we could have made it a money-making proposition for the Union Pacific, we would have worked it instantly and actively.

Q. But your conclusion was it was not a money-making proposition—it was not a practicable route?

A. That is right. It was one that would lose us money and therefore we would not open it.

Q. Counsel asked you if you did not like the Southern Pacific, and you said you did. I suppose you like all roads that give you business, don't you, Mr. Munroe?

A. We do.

By Mr. SEVERANCE:

Q. You were speaking about this Portland route, in answer to counsel just now. You had a good route to California over the Southern Pacific from Ogden, and satisfactory divisions, hadn't you?

A. Yes.

Q. An easy route over which to work business?

A. Yes.

Q. And therefore you had no reason to be dissatisfied so long as your divisions were satisfactory?

A. We were satisfied with the divisions.

Q. And for that reason you did not go into this Portland enterprise, moving business by Portland; at least you had no occasion to do it, as you felt?

A. We felt that if we undertook to move that traffic from the direct route via Ogden to the indirect one via Portland, that we would ultimately lose money by it.

6860 Q. Now, Mr. Stubbs and yourself have both agreed on the stand that if the rates were cut by one route, they would go to smash all along the line—the cut would have to be met.

A. I think that is a general truism.

Q. At the time the Canadian Pacific maintained its differential rate into San Francisco by Vancouver and a boat-line from Vancouver, the rates were demoralized as a result of it, weren't they, and that is the reason why there was an arbitration sought, to put that out of existence?

A. I think that is more or less true, yes.

Q. That is necessarily true. If you put in a lower rate, a cut rate, into San Francisco by way of Portland, as you have said, that would force all the rates down, wouldn't it?

A. I think it would.

Q. Now, the Southern Pacific by its Sunset Route was carrying at times, according to the testimony here, 80 or 85 per cent of the business from New York pier to San Francisco. If you had cut that rate by Portland and thereby caused a cut all along the line, as you say, the Southern Pacific, through its enormous tonnage over the Sunset Route, would have suffered very severely in revenue, wouldn't it?

A. I don't think the Southern Pacific's 85 per cent takings were due entirely to the rate. I think they were due more to negligence of the all-rail overland carriers.

Q. That does not answer my question. If the rates were cut all along the line, as you said——

A. Oh, the Southern Pacific?

Q. —— then, the Southern Pacific would have lost revenue on that enormous tonnage to the extent of that cut, wouldn't it?

A. Undoubtedly.

6861 Q. Therefore, you did have a strong weapon in your hands in owning that route to tidewater at Portland which you could have used if there had been occasion, but there was no occasion to use it because your relations were satisfactory and your divisions were satisfactory; isn't that true?

A. There was some power——

Q. Just answer that question yes or no.

Mr. DUNNE. You answer it, Mr. Munroe, in your own way.

Mr. SEVERANCE. Well, now, Mr. Dunne is not directing the witness at present, if you will pardon me.

Mr. DUNNE. I am suggesting to him.

Mr. SEVERANCE. I know you are.

Mr. LOOMIS. I make the same suggestion.

Mr. SEVERANCE. Mr. Dunne has suggested quite a number of times when it seemed to him he would like to have Mr. Munroe take a moment to think, but Mr. Munroe can take care of himself.

Mr. DUNNE. That is not a fair remark at all.

Mr. SEVERANCE. I would like to have you answer that question frankly, Mr. Munroe.

WITNESS. I want to answer it intelligently.

Mr. DUNNE. You answer it and take your own time about it, Mr. Munroe.

The following question was then read to the witness: "Q. Therefore, you did have a strong weapon in your hands in owning that route to tidewater at Portland which you could have used if there had been occasion, but there was no occasion to use it because your relations were satisfactory and your divisions were satisfactory; isn't that true?"

6862 Mr. SEVERANCE. Now I would suggest, Mr. Munroe, that this is cross-examination and I am entitled to an answer yes or no to that question.

Mr. LOOMIS. Mr. Munroe, you answer that question in your own way.

WITNESS. It was a strong weapon against the Southern Pacific, but a stronger one against the Union Pacific, for this reason: That the total volume of the New York business handled by the Sunset was very much less than the volume of the business from other territory open to the Ogden route; so that the result would have been, while we might have injured the Southern Pacific some, we would have injured ourselves more.

Q. It was something of a weapon, however; in fact, you say it was a strong weapon?

A. Why, it was a weapon in the same sense that a razor in your hand would enable you to suicide if you wished to do so.

Q. Is that the only way in which a——

A. In my judgment, that is the only way in which the weapon could have been effective. It would have killed us.

Q. Wouldn't it have injured the Southern Pacific at the same time? If I take a razor and kill myself it doesn't hurt you, except as you are a friend of mine and do not like to see me do it.

A. You must not ask me before you do it, then.

Q. That is it exactly; that is what I wanted to develop.

A. I was the fellow that was holding the razor.

Q. Now let us go a little further with that. The Union Pacific at the Missouri River has a large number of roads dumping

6863 traffic into it, hasn't it, and it controls by reason of that connection a very large traffic, doesn't it?

A. Yes.

Q. The Southern Pacific controls business, and did when they were competing with you, from the east—control tonnage from Pittsburg by New Orleans, from Cincinnati by New Orleans, and you had other tonnage that moved from the same region over the Union Pacific? Is that true?

A. Oh, yes; they had business and we had business.

Q. You both had business and both were trying to get business, weren't you?

A. Yes.

Q. Both trying to get all the revenue you could?

A. Yes.

Q. And if the transcontinental rates were cut, it would have been a cut on all the rates from east of the Missouri River to the coast, naturally, wouldn't it?

A. Yes.

Q. And the result would have been, if you got into this war of rates, that you would both have suffered very severely? Isn't that so?

A. Undoubtedly.

Q. And so long as your relations were satisfactory, your revenues were kept up, the rates were maintained, your divisions were fair, there was no occasion for you to get into that war: isn't that true?

A. That is true.

By Mr. DUNNE:

Q. The Union Pacific has a railroad from the Missouri River to Ogden, hasn't it?

A. It has.

Q. And there are various railroads leading up to the Union Pacific terminal at the Missouri River, of course, as you have described?

A. Yes.

Q. And the Union Pacific delivers business at Ogden?

A. Yes.

6864 Q. I suppose the railroad from New Orleans and the ships from New England could take business down to New Orleans and up to San Francisco and around to Ogden, couldn't they?

A. Sure.

Q. Do you think that the Sunset Route was a competitor of the Union Pacific at Ogden?

A. No.

Q. Do you think that the matter of competitive routes is to be decided upon considerations of ordinary reason and common sense?

A. Why, certainly I do.

Q. That is the way the Union Pacific has tried to conduct itself in respect to the Portland gateway and other things, isn't it?

A. That has been our aim. Viewed it simply as a business proposition—whether we could or could not afford to engage in it.

Q. I would like to ask you another question. It is suggested by a question of Mr. Severance. If we assume hypothetically that the Union Pacific owned a railroad beginning at Omaha and extending through Ogden to San Francisco and extending from San Francisco down to Los Angeles, and had built a cut-off from Salt Lake to Los Angeles, you would not regard that as the development of two competitive routes, would you?

A. No.

By Mr. SEVERANCE:

Q. You have answered to Mr. Dunne that you would not regard a route to Ogden by way of the Southern Pacific around to California as competitive with the Union Pacific system. Isn't it a fact that there has been and is still in force a tariff on wool by the Sunset Route to Boston which is exactly the same as the tariff over the Union Pacific and its eastern connections from Corinne, Utah, right north of Ogden, and hasn't business moved on that tariff?

A. I rather think that tariff is in effect.

6865 Q. It has been in effect for many years; it may have been renewed from time to time.

A. It has been in effect so long that it has become a dead letter, I know that.

Q. Now, is that true, that it has become a dead letter? Wasn't that tariff or a new tariff of that kind filed in the spring of 1909, by the Southern Pacific Company, according to this record?

A. I don't know, but if it had been it would not be at all strange to me. Everybody knows, everybody familiar with the wool traffic in that section, that the Sacramento route cuts no figure whatsoever, and has not for years, on any wool from any point in Utah to any point in the Atlantic seaboard. Now, we have traffic departments, tariff departments; we have inheritances in the way of rate bases, and unless something was said to the contrary, a tariff once in effect is reestablished from time to time, but in actual movement the tariff amounts to nothing and we pay no attention to it.

Q. Years ago traffic did move that way, did it not, and was competed for actively as between the Union Pacific interests and the Southern Pacific?

A. Why, I don't think there was any material movement of wool traffic that way; there may have been an occasional shipment, but——

Q. Now, do you know anything about it?

A. I do know something about it because we have always had a very respectable eastbound wool traffic from that section, and I cannot recall a case where we were ever influenced in any of our actions by any rate via Sacramento on any Utah wool.

Q. How about northern Nevada and southern Idaho?

A. I don't think that any rate made on Nevada wool by the

6866 Southern Pacific ever had any material effect upon wool from opposite points on the Oregon Short Line, but on that question I am not as well prepared to testify as some others here who have been in direct touch with it; but all the reports made to me indicate that it never has amounted to more than talk, out there at Salt Lake.

Q. Now, Mr. Munroe, of course that is a sarcastic remark—talk at Salt Lake.

A. It is like a good many other things out there in the West, Mr. Severance. There seems to have been an optical illusion come over a great many, and that is supplemented by a lot of exaggerated talk.

You think you are getting a tremendous result, but you analyze it and you will be surprised how little there is left.

Q. You live in the West yourself?

A. I live in the West myself and I have been out on the coast, and I have been hypnotized, too.

Q. You are acquainted with this talk; you have participated possibly at times in it?

A. I have no reflection to cast on the West. I admire the West, but my own experience in going over the lines of the Oregon Railroad & Navigation opened my eyes on that question. I went out there and——

Q. I think we are getting rather far afield now. Of course it is interesting to have these views of the West.

A. Well, I don't know as they are necessary to this case.

Q. Now, you don't attemept to contradict the testimony of the gentlemen who testified at Salt Lake City with reference to the efforts that were formerly made to induce the shearing of sheep on the
6867 line of the Southern Pacific, on the one hand, and the Short Line on the other, so as to get the transportation of those sheep, do you? You don't know whether it is true or not, do you?

A. I do not believe the truth of the statements. I think the parties making them were under a misapprehension, according to the best information I have been able to get.

By Mr. LOOMIS:

Q. You are acquainted somewhat with biblical literature, I believe, Mr. Munroe?

Mr. SEVERANCE. I would suggest that you call Mr. Stubbs.

Mr. LOOMIS. I know enough of Mr. Munroe to believe that he can answer this question.

WITNESS. I would like to be familiar with the best book ever written.

Q. You have heard of a man named Samson, haven't you?

A. Yes.

Q. Do you recall how he ended his life?

Mr. SEVERANCE. Aren't you getting rather far afield, Mr. Loomis?

Mr. LOOMIS. This is my turn now.

Mr. SEVERANCE. Don't forget about Delilah—don't leave her out.

WITNESS. Yes, I recall about Samson standing between the pillars of the temple.

Q. He had plenty of power, I understand?

A. Yes.

Q. And exercised that power in pulling the temple down?

A. Yes.

Q. Killed his enemies and took his own life?

A. Yes.

Q. As I take it, counsel are trying to have the Union Pacific perform the Samson act with reference to the Portland gate-
6868 way. Doesn't that express the situation?

A. That is the way it looks to me.
Mr. SEVERANCE. No questions.
A recess was here taken until 2 o'clock p. m.

6869 JULIUS KRUTTSCHNITT,

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination by Mr. DUNNE.

Q. What is your official position in relation to the Union Pacific and Southern Pacific systems?

A. I am a vice-president of each company and director of maintenance and operation; in other words, I am vice-president in charge of operating and construction.

Q. Will you state in a general way your railroad experience and some of the capacities that you have filled in that experience.

A. I began in the engineering department in 1878, having charge of construction of what are now the Southern Pacific lines in Louisiana. After those lines were completed I had charge of their maintenance and after that of their operation until 1885, when I was made assistant to the general manager of the Southern Pacific lines east of El Paso. I continued in that capacity until 1889, I think, when I was made general manager of those lines, and there had charge, as now, of operation and construction and maintenance. In 1895 I was made general manager of the entire Southern Pacific system, both east and west of El Paso; and in 1901, when Mr. Harriman was made president of the Southern Pacific, I was appointed assistant to the president, and continued in that capacity, with the same general duties that I have defined, until 1904, when I was made director of maintenance and operation of both the Southern Pacific and the Union Pacific systems, the title of vice-president having been
6870 added as to the Union Pacific recently and as to the Southern Pacific some time in the late '90s—I have forgotten just what year.

Q. Between 1901 and the present time, can you state in a general way what has been the policy and what has been the actual practice of the Union Pacific-Southern Pacific systems in respect to the improvement and betterment of the physical properties and of operating conditions?

A. To put it as briefly as possible, when recommendations would go up to the president and board for improvement in maintenance and operating conditions or for the construction of new lines, the first question generally asked of me was whether the device or plan recommended was absolutely the best that could be gotten. That seemed to be the criterion. When answered in the affirmative, I can hardly recall an instance where permission was not given to make the im-

provement. In consequence of that policy, both systems are today in the highest state of efficiency.

Q. Will you suggest in a general way, by reference to the physical features of the properties, how they have been brought to such a high state of efficiency? For instance, in regard to the condition of the roadbed, the rails, the grades, the curvatures, the capacity for freight, and matters of that kind.

A. Starting with the Union Pacific, a great deal of the work of reducing grades, eliminating curves, and rebuilding the Union Pacific was begun prior to 1901, though some of it was still unfinished in 1904, and we have done a great deal since that, since my connection with it began; but at the time my connection began with the Union Pacific, a great deal of the reconstruction work had been completed, the grades had been reduced, the line straightened
6871 out, a great deal of it ballasted with ballast of a very high character, and a great deal of new equipment added, old locomotives repaired, old rolling stock repaired, and new substituted. The work on the Southern Pacific both prior to and subsequent to 1901 was entirely in my hands, and subsequent to 1901 the same policy of eliminating grades and curves, ballasting the road, laying with heavy rail, adding to the equipment, expanding terminals, building new side tracks, new water stations, and all the instrumentalities of transportation, was very vigorously pushed, very much in the same way that the work had already been done on the Union Pacific.

Q. In a general way, what had been the condition of the physical properties of the Southern Pacific Company as compared with the Union Pacific Railroad Company prior to 1901?

A. Prior to 1901 the Southern Pacific was deficient in equipment, both passenger and freight, was short of locomotives; a great deal of the mileage of the system was laid with rails that were too light for the traffic being conducted over them, being generally from 60 and 62 lbs. down. The properties were maintained in as good and safe condition as such shortage of equipment and lightness of rail permitted.

Q. What change, in a general way, if any, was effected in the physical condition of the Southern Pacific properties after 1901?

A. The principal changes were the placing of new equipment orders. We bought more freight cars, more passenger cars, more locomotives, and the greatest change was made in getting out the light rails. Another item of importance was the ballasting, reduction of grades and curves.

Q. Now, touching the cost of operation, and with special
6872 reference to the cost of labor upon your lines—and I include now the Union Pacific system and the Southern Pacific system lines, have you prepared yourself to inform us as to whether the cost of operation from that point of view has increased, and to what extent?

A. I have. I have prepared in graphic form two charts for the Union and Southern Pacific companies, showing the comparative

wages paid employees in the years 1897 and 1908, these being copies of charts that I have gotten up on other occasions, and that accounting for the selection of the year 1897. The data for preparing these charts were taken from returns sent in to me specially by the managing officers. The charts cover employees in train service, agents and operators; in other words, those employees with whom we have and have had for a number of years contracts for rates of pay. I have supplemented the charts with a typewritten statement, taken from our return to the Interstate Commerce Commission, giving the comparative compensations of certain employees, such as maintenance of way employees and the shop employees, appearing on these charts.

Q. Have you aimed to include in the employees charted and uncharted all of the employees, to cover that subject?

A. I would say substantially all. On the Union Pacific it covers 29,500 employees, and on the Southern Pacific a little over 50,000; in other words, practically 80,000, which, I suppose, at that time would take in 90 per cent of all the employees.

Q. And what is the showing as to increase in the cost of labor?

A. What I call the contract classes of labor, which are train men, agents and operators, on the Union Pacific it shows an
6873 increase of 20 per cent and on the Southern Pacific 25 per cent. The average of all classes on both roads, lump, is about 17 per cent increase.

Q. Did you specify the percentage of increase with respect to the uncharted employees? I don't know whether you segregated them.

A. No. For maintenance of way employees it would be 10 per cent increase, and those figures, being taken from the Interstate Commerce Commission reports, are between the years 1901 and 1909. Prior to 1901 they were made up on a different basis. The increase of the maintenance of equipment or shop employees is 17 per cent.

Q. And your average of all classes is what?

A. Of all classes, on both systems, 17 per cent.

Mr. DUNNE. I will offer these charts as exhibits, Mr. Severance, and also the supplementary statement as to the uncharted employees.

The charts produced were marked Defendants' Exhibits 61, 62, and 63, respectively.

Defendants' Exhibit 61 is as follows:

6874

DEFENDANTS' EXHIBIT 61.

(Kruttschnitt)

WAGES.

Graphic chart shows certain classes, average increase being 23%. (U. P. System 20%—S. P. Co. 25%.)

OMITTED CLASSES.

	1909.	1901.	Inc. %.
Maint. of Way & Structure Employees:			
Days worked	8,097,206	6,504,155	.....
Compensation	$15,690,482	$10,713,152	.....
Wages per day	$1.81	$1.65	10
Maint. of Equipment Employees:			
Days worked	6,113,649	4,534,746	.....
Compensation	$16,281,268	$10,312,086	.....
Wages per day	$2.66	$2.27	17
Average increase all classes	.....	.....	17%

OVERTIME RATES.

Have largely increased; for example:

	U. P. R. R.			S. P. Co.—Pac. Sys.		
	1908.	1898.	Inc. %	1908.	1897.	Inc. %
Passenger conductors, per hr., ¢	35	30	17	35	0	.....
" brakemen, "	23	20	15	23	0	.....
Freight conductors, "	44	30	46	48.5	30	62
" brakemen, "	31.3	20	56	38	20	90
Engineers, "	44	38	16	.....	.....	.....
Firemen, "	28	23	22	.....	.....	.....
Switchmen, "	33	26	27	.....	.....	.....
Agents & operators, "	37.5	25	50	.....	.....	.....

In many cases, hours for a days work have also been reduced.

6875 Defendants' Exhibits 62 and 63 face this page.

Q. Have you a showing made along these same general lines in respect to the increase in the cost of material?

A. I have. I have charted in a similar way, for the Union Pacific system, the comparative prices paid for material used in operation in 1908 and 1897. That shows the principal commodities used by the railroad, the relative prices in those two years, and the percentage of increase. The authority for most of the prices is the price actually paid by the company in those years, and as to one or two, marked with an asterisk, the prices given by the United States Department of Commerce and Labor. On the typewritten statement attached to the chart are given a number of comparative prices for the same years, taken from Bulletin 81 of the United States Department of

CHARTS

TOO

LARGE

FOR

FILMING

Commerce and Labor. Those prices are, of course, for the entire country; those on the chart are for the Union Pacific system.

Q. We have no copy here of the last showing that you speak of.

A. You mean the entire copy?

Q. The entire copy, yes. It is not very lengthy. Will you read it into the record—the uncharted list.

A. You may take it. It is rather long.

Mr. DUNNE. All right. We will take that. I will offer this chart and this statement. Bulletin 81, of the United States Department of Commerce and Labor, as separate exhibits.

The same were marked Defendants' Exhibit 64 and Defendants' Exhibit 65, respectively.

Defendants' Exhibit 64 faces this page.

Defendants' Exhibit 65 is as follows:

6876 DEFENDANTS' EXHIBIT 65.

(Kruttschnitt)

Bulletin No. 81—March, 1909, of United States Commerce and Labor, shows following prices of certain materials which are used in railroad operations:

Metals.		1908.	1897.	Inc. %
Bar iron	per lb. ¢	1.46	1.10	33%
Barb wire	"	2.62	1.80	46%
Copper wire	"	15.19	13.75	10%
Pig lead	"	4.22	3.58	18%
Nails common	"	1.95	1.33	47%
" wire	"	2.10	1.49	41%
Pig iron—bessemer	per ton $	17.07	10.13	69%
" " —foundry #2	"	16.25	10.10	61%
Steel rails		28.00	18.75	49%
Pig tin	per lb. ¢	29.42	13.58	117%
Lumber, etc.				
Oak—plain white	per M ft. $	49.29	36.25	36%
Pine—white	"	36.38	15.83	130%
Pine—yellow	"	30.50	16.44	86%
Maple	"	31.62	26.50	19%
Portland cement	per bbl. $	1.46	1.96	—26% Dec.
Lime	"	1.05	.72	46%
Linseed oil	per gal. ¢	43.75	32.75	34%
Turpentine	"	45.33	29.24	55%
Anthracite coal	per ton $	4.20	3.25	29%
Bituminous coal	"	1.44	.83	73%
Petroleum—refined	per gal. ¢	8.69	5.97	45%

Chgo. 9—14–09.

6877 Q. Have you prepared a statement explanatory of the purchasing power of labor, materials and freight rates in the United States?

A. I have.

Q. Will you please explain that showing a little more fully? Explain it in your own way—what it is, its purpose.

A. We took the prices of commodities as given by the Department of Commerce and Labor, Bulletin No. 81, for the years 1890 to 1907, inclusive. These prices were based upon an examination of the prices of 258 commodities by the Bureau. Some 42 hundred manufacturing and mechanical establishments were considered in making these com-

putations. We took the prices of wages from the same source, Bulletin No. 77 of the Department of Labor. We took the freight rates from the Interstate Commerce Commission statistics. We put those in parallel columns, and by dividing the prices of commodities by the price of freight rates we determined the convertibility of commodities into payments for transportation. By dividing the prices of labor by freight rates we determined the convertibility of labor into payments for transportation. By dividing the prices received by the railroads for compensation by commodities we determined the convertibility of the product of the railroads, or transportation, into what they required, or commodities, and by dividing the prices of transportation by the prices of labor we determined the convertibility of the product of the railroad organization in purchasing labor. Having determined those we charted them, and the results are shown on the chart which I have marked "C," a copy of which my secretary will hand you, which shows that from the year 1890 up to 1907 there were very large increases in the power of both labor and commodities to
6878 buy transportation, when there was just as pronounced a fall in the power of transportation to purchase either labor or commodities. Two of the lines trend upward very rapidly and two downward very rapidly, the separation in any one year showing the extent to which the value of the product of the railways depreciated and the extent to which labor and commodities appreciated. The object of going back to 1890 was for the reason that the Department of Commerce and Labor takes as the basing figure the average for the ten years from 1890 up to date; in other words, we were seeking for a period 1901 to date, and found they used the period from 1900 to 1890, the average of those years as the basis, but as all the years are put on here anyone can easily determine the rate of separation of these two sets of figures.

Q. Have you carried out there the percentage of increase?

A. Yes. The purchasing power of commodities and labor in terms of railroad transportation has increased about 43 per cent from 1900.

Mr. SEVERANCE. The purchasing power of commodities and labor——

WITNESS. —to purchase railroad transportation has increased that much. The power of railroad transportation to purchase commodities and labor has fallen about 30 per cent in the same time. One has risen 42 per cent, the other has fallen 30.

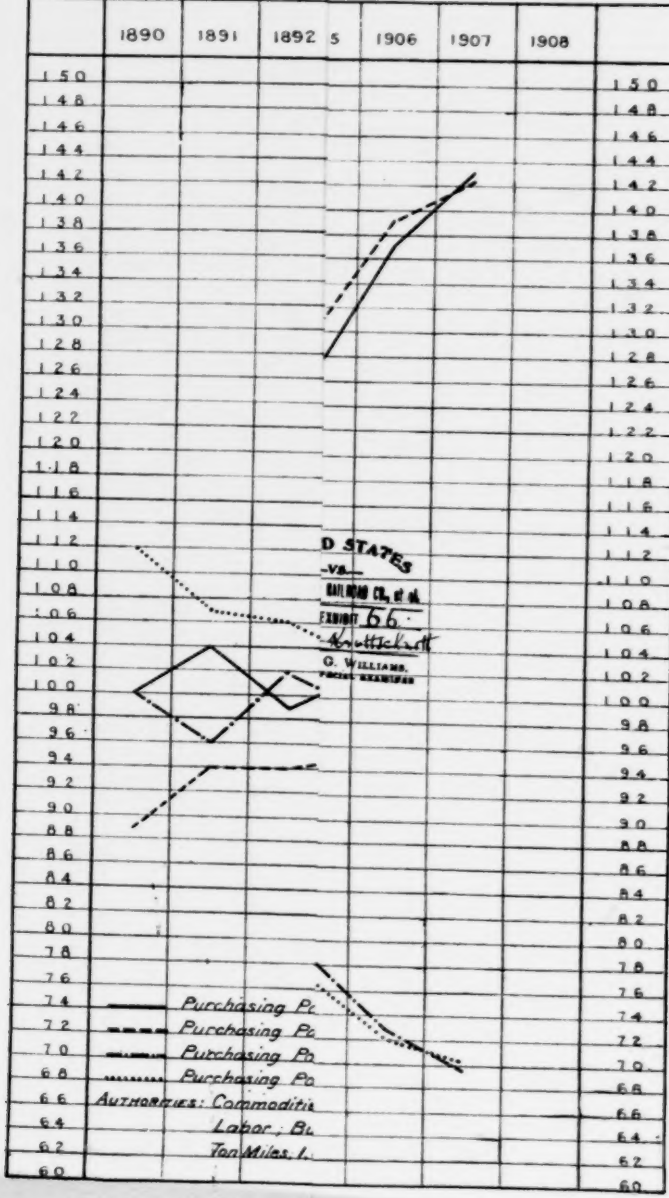
Q. That is below the average for the basing decade?

A. For the basing decade.

Q. Is not the short of it this: that commodities and labor yielded more dollars and transportation less dollars?

6879 A. That is it exactly. Or, to put it in another way, the commodities and labor have both risen very rapidly and they follow almost parallel from 1898 or 1899, and they fall in the purchasing power of transportation for commodities and labor, running almost parallel lines down hill from 1899. Or, to put it in still another way, commodities and wages have risen very rapidly, and

EXHIBIT C #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D STATES
-vs-
RAILROAD CO., et al.
EXHIBIT 66
G. WILLIAMS,
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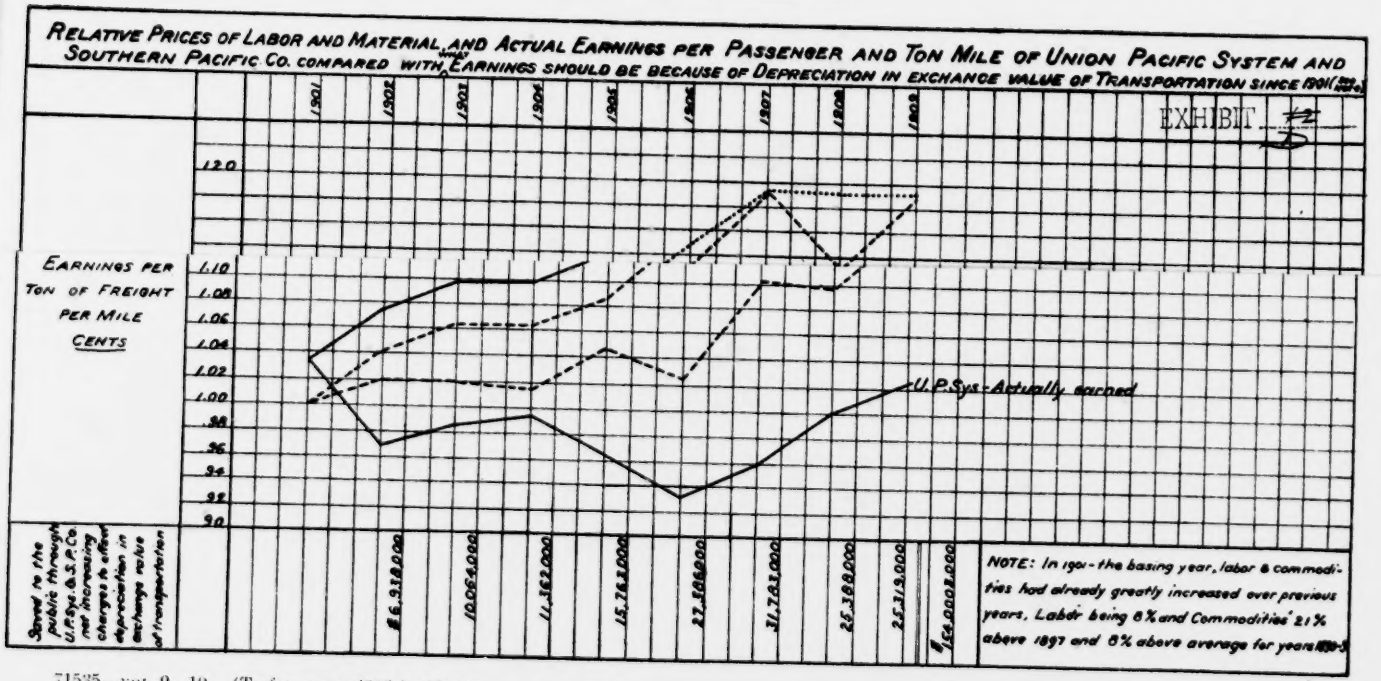
DEFENDANTS' EXHIBIT 67.


RELATIVE PRICES OF LABOR AND MATERIAL AND ACTUAL EARNINGS PER PASSENGER AND TON MILE OF UNION PACIFIC SYSTEM AND SOUTHERN PACIFIC CO. COMPARED WITH EARNINGS SHOULD BE BECAUSE OF DEPRECIATION IN EXCHANGE VALUE OF TRANSPORTATION SINCE 1901
EXHIBIT
EARNINGS PER TON OF FREIGHT PER MILE CENTS
1.10
1.08
1.06
1.04
1.02
1.00
.98
.96
.94
.92
.90
U.P.Sys - Actually earned
Saved to the public through U.P.Sys & S.P.Co not increasing charges to offset depreciation in exchange value of transportation
$6,918,000
10,054,000
11,162,000
15,764,000
17,186,000
21,741,000
25,388,000
25,319,000
$28,000,000
NOTE: In 1901 - the basing year, labor & commodities had already greatly increased over previous years, Labor being 6% and Commodities 21% above 1897 and 8% above average for years

rates for the transportation of freight and passengers have remained stationary or possibly have declined a little.

Q. Have you prepared a showing as to the effect of the economic conditions that you have described here upon the public as a consumer of transportation?

A. I have.

Mr. DUNNE. The last chart, which I now offer in evidence, will be marked Defendants' Exhibit 66.

Defendants' Exhibit 67 faces page 4092.

Q. I will now ask you to take up the charted showing and explain it in your own way.

Mr. SEVERANCE. Is this the same chart, or what is it?

Mr. DUNNE. No, this is another chart.

Mr. SEVERANCE. Do you want to have that identified so as to show what it is?

Mr. DUNNE. I was just going to ask the witness to read the heading of the chart.

The SPECIAL EXAMINER. I would suggest, Mr. Dunne, that you have these identified as they are brought out by the witness and then you will not get them mixed.

Mr. DUNNE. This chart will be identified as Defendants' Exhibit 67.

6880 WITNESS. This chart is headed: "Relative Prices of Labor and Material, and Actual Earnings per Passenger and Ton Mile of Union Pacific System and Southern Pacific Company compared with what Earnings should be because of depreciation in exchange value of Transportation since 1901."

The upper diagram on the chart shows the prices of labor and prices of commodities from 1901 to 1909 and the purchasing power of money to buy labor and commodities between the same periods, the authorities being, as before, the bulletins of the United States Bureau of Labor, the numbers of which are given on the chart. The second diagram shows the earnings per passenger per mile in cents. The two upper curves in that second diagram show what the Union Pacific and the Southern Pacific earnings should have been to have kept pace with the rises in prices of material and labor. The two lower lines in that diagram show what the rates actually were. The separation each year between the two sets of lines shows the savings in rate per passenger mile to the public through the roads having refrained or, perhaps I should say, having been unable to raise their rates to offset them for the higher prices of labor and material that they were forced through economic conditions to pay. The third diagram on that sheet gives exactly the same data as to earnings per ton mile on freight. The divergence of the two sets of lines again being the cents and fractions of a cent per ton mile that the public did not pay through the roads not having raised their rates to offset the increased prices of material and labor. At the bottom of

6881 the sheet there is shown in dollars and cents the actual amount saved to the public in those years. Those amounts, of course, would be gotten by multiplying the ton mileage and the passenger

mileage rates by the total number of passenger miles and ton miles. In the eight years the public were saved $154,000,000 through non-raising of the freight rates to meet the raises of the prices that the roads were paying for commodities and labor.

Q. There is a note in the lower right-hand corner of this chart, and the explanation of the chart would not be complete without some reference to that note.

A. I will read the note on Exhibit 67: "In 1901, the basing year, labor and commodities had already greatly increased over previous years, labor being 8 per cent and commodities 21 per cent above 1897 and 8 per cent above average for years 1890 to 1899."

Q. What is your authority for that statement?

A. The same as on chart Exhibit 66; that is to say, the basing figures are taken from the bulletins of the Bureau of Labor and the Interstate Commerce Commission, the deductions therefrom having been made under my immediate direction in my office.

Mr. DUNNE. I now offer Defendants' Exhibit 67 in evidence.

Defendants' Exhibit 66 faces page 4092.

Mr. DUNNE. Mr. Severance, I offer these charts in evidence as I go along, you understand, without repeating.

Another chart was marked Defendants' Exhibit 68.

Q. I will ask you if you have made a showing in figures corresponding to the graphical statement of Defendants' Exhibit 67?

A. Yes. The exhibit just marked 68 shows exactly the same information in tabular form as is shown graphically on Exhibit 67. In other words it was prepared first and then 67 was
6882 charted from it. If any explanation is wanted I can read it into my testimony.

Q. You may state generally just what it is.

A. The first line of the statement shows relative prices of labor for the years 1901 to 1907, and 1908 and 1909 are estimated. Those relative prices were taken the same as in 1907, as estimates, and would at least be as much. We know, however, from what has transpired since that they would be very much more, because the index prices that are published by political and economic journals show the highest in January, 1910, that they have ever been in the United States. The first line shows the relative prices of labor between 1901 and 1909, in percentages, 1901 being taken as the basing year or unity. The second line shows the relative prices of commodities. The third line shows the relative prices of labor and materials. And the fourth line shows the purchasing price of the dollar in transportation.

Q. Please read the items under the Union Pacific system.

A. Under Union Pacific system the statement shows that the average revenue per ton mile was one cent and three mills in 1901, 96/100 of a cent in 1902, 98/100 in 1903, 99/100 in 1904, 96/100 in 1905, 93/100 in 1906, 96/100 in 1907, 1.003 in 1908, and 1.025 in 1909.

Q. I notice that you read just the first two figures of the decimal, for convenience.

A. For brevity's sake, yes. Now those were the actual rates. The next line shows what the revenue per ton mile should have been to offset the depreciation in the exchange value of transporta-
6883 tion. In 1902 the actual rate was .96—it ought to have been 1.07; in 1903 the actual rate was .98—it ought to have been 1.09; in 1904 actual .99—it should have been 1.09; in 1905 actual .96—it should have been 1.12; in 1906 it was actual .93—it should have been 1.17; in 1907 it was actual .95—it should have been 1.23; in 1908 it was 1 (unity)—should have been 1.19; in 1909 it was 1.02—it should have been 1.23. Now, the next line on that statement shows, of course, the difference between the first two lines. Do you want all of that read out?

Q. No, just read the item itself.

A. The next line shows a saving to the public per ton mile. The next line shows the average actual revenue per passenger mile; immediately below it what the revenue per passenger mile should be to offset the depreciation in exchange value of transportation. The next line shows the saving to the public per passenger mile and the last line the total saving in dollars and cents to the public. Exactly the same figures are shown under the head of Southern Pacific Company. In the last line of the statement is given the total saving to the public on both systems; and finally, outside the frame, at the bottom of the sheet is given the aggregate saving by both systems for the entire period, or $154,000,000.

Q. Still calling your attention to the last exhibit and to the first line under the caption "Southern Pacific Company, average revenue per ton mile," I notice in the actual figures an increase in the average revenue per ton mile, Southern Pacific Company. Have you anything to say in respect to that?

6884 A. Yes. The rates given are, of course, average rates for the entire traffic of the company. Between the years 1901 and 1909 there was a material difference in the class of freight carried; for instance, the products of mines decreased 818,000 tons; the products of agriculture increased 290,000 tons; the products of animals increased 106,000 tons, and the average haul was much less in 1909 than in 1901, showing a growth of local freight traffic, the rates of which are generally higher than through rates. In other words, the slight change in the actual rate would be accounted for by those changes in the character of freight carried and in the character of the freight as dependent on classification, and the character is distinguished between local and through. For instance, the average haul in 1901 was 343 miles, and in 1909, 267 miles.

Mr. SEVERANCE. That is Union Pacific or Southern Pacific?

WITNESS. Southern Pacific.

Q. Have you prepared a statement of those data?

A. Yes; that is on a typewritten sheet attached.

The paper was marked Defendant's Exhibit 69.

Mr. DUNNE. I now offer in evidence Defendants' Exhibit 68 and Defendants' Exhibit 69.

Defendants' Exhibit 68 is as follows:

DEFENDANTS' EXHIBIT 68

(Kruttschnitt)

Value to the public of absorption by Union Pacific and Southern Pacific systems of the depreciated purchasing power of money received as freight and passenger fares.

	1901.	1902.	1903.	1904.	1905.	1906.	1907.	1908.	1909.
Relative prices of labor	100	103.9	107.7	108.3	110.1	114.8	119.3	Est. 119	Est. 119
" " " commodities	100	104.1	104.7	104.1	106.8	112.9	119.3	113.2	Est. 119
" " " labor & material	100	104.0	106.2	106.2	108.5	113.8	119.3	Est. 116	Est. 119
Relative purchasing price of a dollar	100	96.1	94.2	94.2	92.1	87.9	83.8	86.2	84
Union Pacific System									
Average revenue per ton mile, ¢	1.034	.968	.986	.994	.964	.932	.958	1.003	1,025
What revenue per ton mile should be to offset depreciation in exchange value of transportation		1.075	1.098	1.098	1.122	1.177	1.234	1.199	1.230
Saving to the public per ton mile		.107	.112	.104	.158	.245	.276	.196	.205
Average revenue per pass. mile, ¢	2.327	2.250	2.152	2.176	2.021	2.202	2.199	2.155	2.16
What revenue per pass. mile should be to offset depreciation in exchange value of transportation		2.420	2.471	2.471	2.525	2.648	2.776	2.699	2.769
Saving to public per pass. mile		.170	.319	.295	.504	.446	.577	.544	.600
Total saving to the public		$4,398,000	$5,571,000	$5,652,000	$10,238,000	$15,982,000	$19,669,000	$14,457,000	$15,567,000
Southern Pacific Company									
Average revenue per ton mile	1.001	1.021	1.022	1.044	1.046	1.025	1.105	1.097	1.151
What revenue per ton mile should be to offset depreciation in exchange value of transportation		1.041	1.063	1.063	1.086	1.139	1.194	1.161	1.191
Saving to the public per ton mile		.020	.041	.049	.040	.114	.089	.064	.040
Average revenue per pass. mile	2.277	2.201	2.175	2.141	2.183	2.243	2.287	2.174	2.185
What revenue per pass. mile should be to offset depreciation in exchange value of transportation		2.368	2.418	2.418	2.471	2.591	2.716	2.641	2.704
Saving to public per pass. mile		.167	.243	.277	.288	.348	.429	.467	.520
Total saving to the public		$2,540,000	$4,493,000	$5,710,000	$5,525,000	$11,404,000	$12,114,000	$10,931,000	$9,752,000
Total saving to the public both roads		$6,938,000	10,064,000	11,362,000	15,763,000	27,386,000	31,783,000	25,388,000	5 ,319,000

Union Pacific System	$91,534,000	
Southern Pacific Company	$62,469,000	$154,003,000

6886 DEFENDANTS' EXHIBIT 69.

(Kruttschnitt)

Southern Pacific Company—Earnings per ton mile.

	Earnings per ton.	Average haul, miles.	Earnings per ton-mile.
1901	$3.44	343	1.001¢
1902	3.22	315	1.021¢
1903	3.00	294	1.022¢
1904	2.92	288	1.014¢
1905	2.97	285	1.046¢
1906	2.85	278	1.025¢
1907	2.99	271	1.105¢
1908	3.11	283	1.097¢
1909	3.08	267	1.151¢

Products of mines decreased from 1901 to 1909 ..... 818,499 tons.
Products of agriculture increased from 1901 to 1909 ..... 290,070 "
Products of animals increased from 1901 to 1909 ..... 106,817 "
Increase in rates due to changes in classification and shorter hauls.

6887 Q. I will ask you what your authority is for the statements contained on Defendants' Exhibit 69?

A. The annual reports.

Q. Calling your attention now to the matter of capital expenditures. In what way have capital expenditures been made so far as the benefit to the public is concerned in the operation of the properties for public use? In what directions have you made your capital expenditures and how have they acted in the way I have suggested?

A. Capital expenditures, as I have already touched on it, were all made with a view of increasing the efficiency of these railroads as instrumentalities of transportation. Of course some of the capital expenditures were applied to the building of new branches and the acquisition of new lines, but outside of that all of the other capital expenditures were for the purpose of making these railroads more efficient transportation machines, by increasing the equipment, reducing grades and curvature, which is another way of saying that you increase your equipment, because by increasing the capacity of what you have, by making grades less, you add that many more locomotives to your equipment; by increasing the number of side tracks, extending terminals, purchasing property all over the line, at small stations and large ones, for increased facilities, putting up larger stations, increasing the size of water stations, building double tracks, putting in automatic signals.

Q. Without these capital expenditures and improvements what would have been the ability of these roads to handle the business? Could they have handled the business?

6888 A. They could not have handled it at all. They could have handled it to a certain amount, but with the increased traffic on all of the roads, due to the development of the country, they would have been actually swamped.

Q. Have you prepared a graphic showing of the improvement in physical condition on the Union Pacific and the Southern Pacific systems since the year 1901?

A. I have. I have this also in two forms—a typewritten sheet giving the actual figures, and a graphic chart platting those figures. The two give exactly the same information, but in different shape.

Q. With your graphic chart before you, can you give us a reference to the various items of improvement?

A. Firstly, as to the Union Pacific system, the two years compared being 1901 and 1909; mileage of first main track increased 10 per cent; mileage of additional main tracks 517 per cent; mileage of sidings 42 per cent; expended on maintenance of roadbed and structures per mile operated 26 per cent; percentage of rail 75 lbs. or over in main lines, in the first year was 25 per cent, and in the second year it was 78 per cent.

Q. That is, it increased from 25 per cent in 1901 to 78 per cent——

A. In other words, it was about three times as much.

Q. Percentage of rails 75 lbs. or over. Was there any increase on the branches?

A. Slight, yes; 6 per cent. On the total system it increased from 17 per cent to 50 per cent. The percentage of track ballasted increased from 28 per cent to 50 per cent. Percentage of road fenced from 60 to 83. Percentage of timber trestling creosoted from none to 2 per cent. Percentage of ties Burnettized, that is,
6889 treated with chemicals to prevent decay, increased from nothing to 42 per cent. Percentage of track with tie plates increased from 4 per cent to 49. Percentage of tracks protected by automatic block signals, that is, main lines, from 6/10 of 1 per cent to 70 per cent. The train accidents per million locomotive miles run decreased from 19.3 to 9.9. The locomotives owned increased from 832 to 1088. The average hauling capacity of locomotives owned increased 39 per cent. The tons of freight handled per train increased 50 per cent. Passengers per train 66 per cent. Passenger equipment 25 per cent. Freight equipment 18 per cent. Average capacity of freight equipment 38 per cent. Average tons of freight handled in each loaded car 16 per cent. Expended per annum for maintaining each locomotive 22 per cent; for maintaining each passenger car 62 per cent; and for maintaining each freight car 82 per cent.

Q. Did you read the item "Total capacity of cars owned, in tons?" I think it is the sixth from the bottom.

A. No, I did not read that. That can be put in there. Total capacity of cars owned, in tons, 62 per cent.

Q. On the other side you have a corresponding statement for the Southern Pacific Company. I won't ask you to read that. Those statements are in the record and will go in with the exhibit, but I will ask you generally as to the correspondence in the quantity of improvement as between the Union Pacific and Southern Pacific Company.

CHARTS

TOO

LARGE

FOR

FILMING

A. The chart shows to the eye at once that there is a correspondence in nearly every item.

The chart from which the witness testified was marked Defendants' Exhibit 70, was offered in evidence by Mr. Dunne, and faces page 4098.

6890 Q. I understood you to say that the subject matter of this charted statement had been carried by you into arithmetical expressions. Do you have that before you?

A. Yes, it is on the typewritten sheet.

Mr. DUNNE. I will offer that in evidence and ask to have it marked Defendants' Exhibit 71.

Defendants' Exhibit 71 is as follows:

6891 DEFENDANTS' EXHIBIT 71.

(Kruttschnitt.)

Improvement in physical condition.

	Union Pacific System.			Southern Pacific Company.		
	June 30, 1909.	June 30, 1901.	Relative, 1901—100.	June 30, 1909.	June 30, 1901.	Relative, 1901—100.
Mileage of first main track operated	6,145	5,595	110	9,721	8,769	119
" " additional main tracks	475	77	617	229	107	214
" " sidings	1,852	1,300	142	3,191	2,105	152
Expended on maintenance roadbed and structures per mile of all main tracks	$1,185	$942	126	$1,474	$1,161	127
Rail in main lines: 75 lb. and over	3,160	975	324	5,437	2,169	251
Under 75 lb.	885	2,941	30	137	3,120	4
Rail in branches: 75 lb. and over	144	0	.....	624	22	2,818
Under 75 lb.	2,390	1,750	136	3,680	3,547	103
Rail in all tracks: 75 lb. and over	3,304	975	339	6,060	2,191	277
Under 75 lb.	3,275	4,697	70	3,827	6,667	57
Per cent of 75-lb. and over in—						
Main lines	78	25	312	98	41	239
Branches	6	0	.....	15	1	1,500
All tracks	50	17	294	61	24	254
Percentage of track ballasted	50	28	179	44	37	119
" " road fenced	83	60	138	70	63	111
" " timber trestling creosoted	2	0	.....	52	28	189
" " ties burnettized	42	0	.....	33	27	122
Miles of track continuously tie-plated	3,215	237	1,357	7,097	4,188	170
" " " protected by block signals	2,512	22	11,418	2,812	67	4,197
Percentage of track so protected	41	0	.....	29	1	2,900
Train accidents per 1,000,000 locomotive miles	9.9	a 19.3	51	21.7	a 27.3	79
Locomotives owned	1,088	832	131	1,837	1,297	141
Average weight on drivers, tons	48.18	49.00	139	52.80	40.62	145
Relative hauling power per locomotive	139	100	139	145	100	145
Average tons freight handled per train	548.49	365.62	150	490.50	305.34	151
Average passengers handled per train	65.39	39.32	166	74.45	53.01	140
Passenger cars owned	711	568	125	1,771	1,261	140
Freight cars owned	26,470	22,500	118	44,578	35,709	125
Total capacity cars owned, tons	981,923	607,500	162	1,632,708	959,885	170
Average capacity cars owned, tons	37.22	27.00	138	37.58	26.88	140
Average tons freight handled per loaded car	21.81	18.92	116	20.53	17.38	118
Expended per annum on maintaining each—						
Locomotive	$3,149	$2,580	122	$3,182	$2,439	130
Passenger car	$1,189	$735	162	$962	$780	124
Freight car	$100	$55	182	$123	$61	202

a 1904—no earlier data.

6892 Q. Will you state briefly the nature of Defendants' Exhibit 71.

A. Defendants' Exhibit 71 shows the improvement in physical condition of the Union and Southern Pacific systems between the years ending June 30, 1901 and June 30, 1909, and the data given on the sheet have been platted graphically on Defendants' Exhibit 70.

Q. I don't know that I asked you the question as to your authority for this exhibit.

A. The annual reports.

Q. What have been the expenditures for betterments and additions, equipment and new construction upon the Union Pacific system for the eight years ending June 30, 1909?

A. On Union Pacific?

Q. Yes.

A. On improvements covered under 36 items that I have listed on this exhibit, 19-1/2 millions; on some 10 other items, such as second main track, terminals, $32,475,000. I am only reading to the thousands. I don't suppose if the statement is in evidence, that you want it carried out to dollars and cents.

Mr. DUNNE. There is no objection to that, is there, Mr. Severance?

Mr. SEVERANCE. Oh, no.

WITNESS. Reconstruction and grade revision $5,334,000; rolling stock $22,611,000; change of line between Omaha and Lane $3,841,000—total $64,263,000. Construction and acquisition of new lines $57,245,000—total $121,508,000. In addition to the above the Union Pacific purchased jointly with the Southern Pacific Company equipment of the Pacific Fruit Express, aggregating $10,671,000,

6893 half of which was paid by the Union Pacific.

Mr. DUNNE. I offer that exhibit in evidence and ask to have it marked Defendants' Exhibit 72.

Defendants' Exhibit 72 is as follows:

6894

DEFENDANTS' EXHIBIT 72.

(Kruttschnitt.)

Union Pacific System: Expenditures for betterments and additions, equipment, and new construction.

Item.	8 yrs. ending June 30, 1909.	8½ years ending June 30th, 1901.		
		3 yrs. ending June 30, 1901.	5½ yrs. endg. June 30th, 1898.	Total.
1. Ballast	$1,758,795.65	$978,834.68		$978,834.68
2. Bridges and trestles	4,351,022.24	1,572,290.55	$100,650.72	1,672,941.27
3. City viaducts	113,958.73	153,447.22		153,447.22
4. Culverts	189,661.41	19,065.98		10,065.98
5. Docks and wharves	16,593.05	297.32		297.32
6. Fencing right-of-way	251,768.24	187,595.09	18,281.45	205,876.54
7. Highway crossing signals	24,215.29			
9. Real estate, other than rt-of-way & sta. grounds	786,953.09	37,076.58	1,350.00	38,426.58
10. Right-of-way and station grounds	1,690,179.40	95,531.60		95,531.60
11. Road machines and tools	20,222.68	3,617.51		3,617.51

Union Pacific System: Expenditures for betterments and additions, equipment, and new construction—Continued.

Item.	8 yrs. ending June 30, 1909.	8½ years ending June 30th, 1901.		
		3 yrs. ending June 30, 1901.	3½ yrs. endg. June 30th, 1898.	Total.
12. Shop machines and tools	$183,850.62			
13. Side tracks	2,588,896.25	$877,918.67	$12,193.09	$890,111.16
14. Signals—interlocking and block	2,470,979.63	2,715.70		2,715.70
15. Snow sheds and snow fences	25,166.03	16,110.44		16,110.44
16. Engine houses	199,215.91			
17. Fuel stations	283,037.53	9,625.25		9,625.25
18. Grain elevators	72,621.99	67,764.46		67,764.46
19. Ice houses	143,835.12	1,043.82		1,043.82
20. Oil tanks	2,839.07			
21. Stock yards	32,908.74	3,966.55		3,966.55
22. Shops	1,137,089.38	166,482.83		166,482.83
23. Station buildings and fixtures	561,176.74	152,901.65		152,901.65
24. Turntables	31,903.47	1,967.25		1,967.25
25. Bunk houses	41,347.60			
26. Section houses	56,215.15	1,569.39		1,569.39
27. Water stations	766,213.42	214,740.22		214,740.22
28. Stand pipes	35,233.53	506.51		506.51
29. Water softeners	35,134.59			
30. Water tanks	73,287.47	726.90		726.90
31. Miscellaneous structures	473,350.24	165,403.87		165,403.87
32. Telegraph lines	388,342.10	3,768.17		3,768.17
33. Timber treating plants	209,004.66			
34. Track scales	30,084.67	18.99		18.99
35. Tunnels	141,551.56	1,583.74		1,583.74
36. Widening embankments for ballast	946,049.23	613,629.50	68,928.69	682,558.19
Total	$19,538,803.48	$5,341,199.84	$201,403.95	$5,542,603.79
Second main track	$7,785,933.16	$348,275.10		$348,275.10
Terminal improvements, Omaha	266,570.08	427,722.20		427,722.20
Shop improvements	1,766,319.24			
Improving yard facilities on U. P. R. R.	442,091.50			
Improving yard facilities on O. S. L. R. R.	254,793.13			
Division terms. Sharon Spgs., Hugo. & Stlg	333,757.87			
Gravity water supply, Evanston & Ogden	92,782.02			
Improvement of yard terminals, Salt Lake City	1,288,503.78			
Improvement terminals at Spokane & Portland	179,364.72			
Miscellaneous betterments not classified	526,541.10	304,094.79	147,566.57	451,661.36
Total	$32,475,529.47	$6,421,291.93	$348,970.52	$6,770,262.45
Reconstruction and grade revision	$5,334,425.19	$9,106,527.47	$129,338.38	$9,235,865.85
Total	$37,809,955.66	$15,527,819.40	$478,308.90	$16,006,128.30
Rolling stock	$22,611,742.93	$10,127,095.63	$505,369.40	$10,632,465.03
Total	$60,421,698.59	$25,654,915.03	$983,678.30	$26,638,593.33
Omaha—Lane, cut-off	$3,841,643.85			
Total	$64,263,342.44	$25,654,915.03	$983,678.30	$26,638,593.33
Construction and acquisition of new lines	$57,245,082.04	$6,819,235.20		$6,819,235.20
Grand total	$121,508,424.48	$32,474,150.23	$983,678.30	$33,457,828.53
NOTE: In addition to the above, the Union Pacific System and Southern Pacific Co. jointly purchased equipment for the Pacific Fruit Exp. Co. to the amount of	$10,671,858.70			

Chicago, Ill., January 11th, 1910.

6895 Q. I want to call your attention for a moment to Defendants' Exhibit 72, because I notice a statement headed "8-1/2 years ending June 30, 1901," and I find that that is further analyzed into "3 years ending June 30, 1901" and "5-1/2 years ending June 30, 1898." Will you please explain that part of the exhibit.

The SPECIAL EXAMINER. Do you mean 1891 instead of 1901?

Mr. DUNNE. No, 1901. I will explain to Your Honor that the three years ending June 30, 1901, would be the three years after the reorganization of the properties in 1898. I mention that first. I should have mentioned the 1898 first and it would not have misled you.

Q. Now will you please explain that segregation.

A. There was expended in the 5-1/2 years preceding the reorganization only $201,000 on general betterments, and in the three years following the reorganization, up to the end of the fiscal year June 30, 1901, there was spent $5,341,000. In other words, the present management of the Union Pacific, we will say, or the present company was organized in 1898.

Q. Still directing your attention to the three years ending June 30, 1901, is that total of five millions plus carried out and expanded by other items, with the amounts set against them?

A. Yes, the $5,341,000 embraced the 36 items of general betterment and different items of operating expenses of the property. The next ten items, together with the expenditure on 36 raise the total to $6,421,000; reconstruction and grade revision accounts for $9,106,000; rolling stock $10,127,000; construction and acqui-
6896 sition of new lines $6,819,000. The grand total for the three years is $32,474,000.

Q. Those are the three years ending June 30, 1901?

A. Yes.

Q. What is the showing for the 5-1/2 years ending June 30, 1898?

A. For all of the items that I have specified there was spent only $983,000.

Q. The two columns—the one for the three years after the reorganization, the other for the 5-1/2 years ending June 30, 1898—are combined in this last column, are they not?

A. They are, and they total $33,457,000.

Q. That total carries us to June 30, 1901, and then your first column, with its total of $121,000,000 plus and the $5,000,000 plus for the Pacific Fruit Express, makes the total for the eight years beginning June 30, 1901?

A. Yes.

Q. I will ask you if you have a showing similarly constructed for the Southern Pacific for the 8-1/2 years ending June 30, 1901, and the eight years ending June 30, 1909?

A. I have.

Q. Will you please state what that showing is; and I suppose, so far as general betterments are concerned, you can state comprehen-

sively the total result of that. Will you please begin with the 8-1/2 years ending June 30, 1901?

A. For the 8-1/2 years ending June 30, 1901, on general betterments there were spent $12,390,000.

Q. For the eight years ending June 30, 1909, what was the total for general betterments?

A. $41,669,000. Adding to the above reconstruction and change in line and terminal properties, the total for the 8-1/2 years ending June 30, 1901, was $15,361,000, and for the period ending 1909 $66,327,000. Adding to these figures the amount spent for
6897 rolling stock, steamships and other floating equipment, for the period 1901, is $30,792,000; for the second period $107,373,000. Adding to the above figures the cost of line changes, grade reductions, to the period ending 1901, the total expenditure was $30,792,000; for the second period $127,431,000. And finally adding in the cost of construction and acquisition of other new lines and terminal properties, the grand total for the period ending 1901 was $57,722,000; for the second period $241,944,000. And to this total should be added $5,335,000—one-half cost of the Pacific Fruit Express equipment bought jointly with the Union Pacific.

Mr. DUNNE. I offer this exhibit in evidence and ask to have it marked Defendants' Exhibit 73.

Defendants' Exhibit 73 is as follows:

6898 DEFENDANTS' EXHIBIT 73.

(Kruttschnitt)

Southern Pacific Company: Expenditures for Betterments and Additions, Equipment, and New Construction.

Item.	8 yrs. ending June 30, 1909.	8½ yrs. ending June 30, 1901.
1. Ballast	$2,902,206.97	$2,155,245.86
2. Bridges and trestles	6,298,059.44	2,079,934.54
2a. Over and under grade crossings	251,399.13	.....
3. City viaducts	292,754.74	43,067.64
4. Culverts	52,573.43	91,138.80
4a. Cattle guards and crossings	57,915.60	141,423.75
5. Docks and wharves	613,731.10	209,345.42
6. Fencing right-of-way	284,842.53	359,349.86
7. Highway crossing signals	15,685.91	30,732.85
8. Pipe lines—oil	12,024.53	.....
9. Real estate, other than rt-of-way & sta. grounds	1,313,821.12	218,506.19
10. Right-of-way and station grounds	1,922,167.56	681,814.45
11. Road machines and tools	131,773.73	4,748.51
12. Shop machines and tools	1,855,648.31	295,592.82
13. Side tracks	7,293,407.78	2,579,455.11
14. Signals—interlocking and block	2,835,278.48	126,597.75
15. Snow sheds and snow fences	11,965.61	23,709.58
16. Engine houses	859,125.27	349,110.04
17. Fuel stations	1,827,386.45	218,025.09
18. Ice houses	54,720.36	1,606.02
20. Oil tanks	157,714.97	.....
21. Stock yards	67,534.56	10,349.11
22. Shops	1,477,063.98	85,860.19
23. Station buildings and fixtures	1,878,217.26	1,140,096.56
24. Turntables	77,957.27	100,279.92
25. Bunk houses	43,374.29	1,351.20
26. Section houses	77,259.17	81,411.19
27. Pumping stations	1,058,284.69	396,226.69
28. Stand pipes	47,425.13	730.25
29. Water softeners	109,376.40	5,472.20

Southern Pacific Company: Expenditures for Betterments and Additions, Equipment, and New Construction—Continued.

Item.	8 yrs. ending June 30, 1909.	8½ yrs. ending June 30, 1901.
30. Water tanks	$229,949.78	$50,065.54
31. Miscellaneous structures	1,611,337.37	153,726.30
32. Telegraph lines	405,895.91	106,020.78
33. Timber treating plants	6,855.98	887.00
34. Track scales	36,396.88	13,405.85
35. Tunnels	664,854.88	1,356.81
36. Widening embankments for ballast	589,772.48	19,847.77
37. Second main track	2,099,532.70	613,922.57
38. Electrification of Alameda Lines	388,478.13	.....
39. Change of gauge—S. P. C.	584,555.56	.....
40. New terminal buildings	510,827.16	.....
Total	$41,669,172.60	$12,390,414.21
Reconstruction and change in line	$10,761,484.34	$2,880,153.02
Terminal real estate and other property	13,896,985.58	91,326.48
Total	$56,327,642.52	$15,361,893.71
Rolling stock	$42,061,304.69	$12,981,645.17
Steamships and other floating equipment	8,984,282.09	2,448,941.28
Total	$107,373,229.30	$30,792,480.16
Ogden-Lucin Cut-Off	$8,358,833.71	.....
Bay Shore Cut-Off	$9,273,055.58	.....
New Line, Montalvo to Burbank	2,425,911.90	.....
Total	$127,431,030.49	$30,792,480.16
Construction and acquisition of other new lines and terminal properties	$114,513,383.71	$26,929,952.25
Grand total	$241,944,414.20	$57,722,432.41

Chicago, Ill., January 11th, 1910.

6899 Q. Mr. Kruttschnitt, will you mention some of the important improvements that have been made in the condition of these roads since 1901?

A. On the Union Pacific the policy started in 1898, of reducing grades, taking out curves, ballasting, improving terminals, and block signalling, was continued subsequent to 1901 and has been continued really up to the present day. On the Union Pacific, some of the particular items might be mentioned, such as the change of line between Omaha and a point about 22 miles west of it, by building what is known as the Omaha-Lane cut-off, which substitutes for a high grade single track line with very heavy curvature and for a considerable part of its distance through a thickly settled community, a low grade double track line with very straight alignment, with few or no grade crossings on it, which can be operated at very high speed, and with a reduction of distance in the 22 miles of about 10, or nearly 50 per cent. A second notable improvement was the reduction of the summit of the Union Pacific over the Rocky Mountains, and a substitution of a road with excellent alignment, fully ballasted, and for nearly all of its distance double tracked in place of the old line, which was very crooked and climbed the summit several hundred feet higher than the present one, and was single track. Both of these lines have been fully protected by the most modern block signal devices. On the Union Pacific, between Omaha and Ogden, there have been built, at the present time, rather over 400 miles of double track, and there must be from 150 to 175 miles authorized and under vari-

ous stages of construction. All of the main line of the Union Pacific, some of its line from Cheyenne to Denver, and some of
6900 its Kansas division from Kansas City to Denver, has been thoroughly and absolutely protected by the most efficient means of automatic electric block signalling known. When I say Union Pacific, passing on to the O. R. & N. and Short Line, the policy of block signals has been followed there; and the main lines of those two roads are well advanced in block signalling. The O. R. & N. is complete, from one end to the other, from Huntington to Portland; and the Oregon Short Line, for a considerable part of its mileage is complete. So today the Union Pacific has a larger percentage of its main line track on which its traffic is densest and the risk of accident greatest, protected with high grade block signalling, than any road west of the Mississippi River, and it is exceeded in that respect by very few roads east of the Mississippi River. At the same time, on the Union Pacific, freight division terminals have been increased as to trackage and have been remodeled, making the work of switching, marshalling and breaking up trains, quicker and more efficient. Water stations have been increased; ballasting has been pushed; the standard of rail has been raised from 70 and 75 pounds to 90; and in the renewal of small structures, metal, concrete and masonry have been substituted for timber. As to the Southern Pacific, some of the principal items of improvement have been the Bay Shore cut off, giving a new entrance to the Sunset lines into the City of San Francisco, avoiding very heavy grades, very crooked track, through a densely settled part of San Francisco, substituting for a single track a double track at water grade, reducing distance about 4 miles between common points, and crossing every street in San Francisco that is crossed, at separated grades instead of at grade.

The second notable improvement has been the construction of
6901 what is known as the Dumbarton cut-off. This is also on the Sunset line, and will enable trains from the San Joaquin Valley lines of the Southern Pacific to come into San Francisco over a bridge, in lieu of transferring over the ferries—as they do at the present time.

Q. You mean by "ferries", if I may interject, the ferries from the Oakland to the San Francisco side of San Francisco Bay?

A. Yes. I thought I said "across San Francisco Bay"; I should have said it; in lieu of the ferries connecting Oakland and San Francisco. The second notable improvement on the Sunset line has been the new line between Montalvo and Burbank, by which a low grade line, with low curvature, has been substituted for a very crooked line with numerous choppy grades. The policy of double tracking has been followed on the Southern Pacific also, double tracks having been built from San Francisco to San Jose, from Los Angeles to Burbank, and from Los Angeles to Shorb. In Arizona and New Mexico, construction has been begun on a line in the canyon of the Gila River, which will eventually give a low grade line for a long distance as against lines with very obstructive grades now

being operated. Extensive improvements have been made in the terminals at San Francisco, Oakland, Los Angeles, San Jose, and at almost every freight terminal on the entire system. Sidetracks have been lengthened. Renewals of light metal and wooden bridges have been made with modern steel bridges of the heaviest specifications. On the lines east of El Paso, over two millions of dollars have been spent in building an ocean terminal at Galveston, for the accommodation of the Company's New York and Galveston fleet. At Avondale, 10 miles above New Orleans, a ferry transfer has been put in, to enable the passenger trains to enter the modern passenger
6902 station of the Illinois Central, in the heart of the city, the Southern Pacific before that time having had such poor passenger terminals in New Orleans as to be negligible; indeed, they were so poor that the passengers alone crossed the river; the baggage cars were ferried; and it made a break for the passengers in crossing the river. At present, the whole train is ferried, and passengers do not leave the train until they reach the Union station. In the suburban lines around San Francisco Bay, steam motive power is being abandoned and electric motive power installed. Numerous additions have been made to the company's fleet of steamers plying between New York, on the one hand, and New Orleans and Galveston on the other. A number of these ships have been delivered, and four very large freight ships are now under contract for delivery in the latter part of 1910. Automatic block signalling has been pushed on the Southern Pacific lines, as it has been on the Union Pacific, primary attention being given to the main lines. So, in connection with the Union Pacific, the line from the Missouri River to San Francisco Bay is now fully protected by the highest grade of electric block signalling. And on the Sunset line, from San Francisco to New Orleans, a very considerable part of the mileage has been protected, and future additions to this equipment are being made on this line, it receiving second attention on account of its much less traffic density than the Southern Pacific's line from San Francisco to Ogden. On the lines east of El Paso, in the past four or five years every metal bridge that had been put in the line in the construction in 1882 and 1883, has been removed and replaced with very much heavier steel structures. Sidings have been length-
6903 ened, terminal properties purchased, and equipment added to very generously; as a result of which the property is in a very high state of efficiency. There are some photographs here of these various improvements, selected from a large collection, that possibly will illustrate some of these points, showing the standard of bridge construction, station construction, terminals, block signals, bridges, and so on. In listing these improvements on the Southern Pacific I should like to add an allusion to the Ogden Lucin cut-off—perhaps the most important improvement they have ever made. It escaped my memory. That is the low grade line across Salt Lake, saving 44 miles of distance in 144, and saving a climb over the Promontory Mountains. And another piece of work of great importance, which

is now perhaps half finished, is the reconstruction of the line over the Sierra Nevada Mountains from Rockland to Colfax, a distance of 32 or 33 miles, substituting a 1½ per cent grade with good alignment, suitable for fast time, for a road with 2.2 per cent grades and extremely crooked; the new line being intended as an up-hill track, the old one as a down-hill track, so that, incidentally, those 33 miles will be double tracked.

The photographs referred to by the witness, and produced by him, were offered in evidence by the Defendants, received without objection, and marked Defendants' Exhibits 74 to 98, both inclusive; but it was stipulated that the same need not be printed in the record of this case but might be used by counsel in the argument the same as if the photographs had been incorporated in the record.

Q. Is there anything on those photographs to indicate their location?

A. I think most of them have been backed. Defendants' Exhibit 74 is a photograph of the stone passenger station at the entrance
6904 of Yellowstone Park. Defendants' Exhibit 75 is a distant view of the new station at Salt Lake City, new tracks, and street viaduct across the freight and passenger yards at Salt Lake City. Defendants' Exhibit 76 is a new masonry and brick station at Payette, in western Idaho. Defendants' Exhibit 77 is a photograph of the Salt Lake station complete except as to the train shed and concourse, which has yet to be built. Defendants' Exhibit 78 is a section of the recently completed double track of the Union Pacific near Lawrence, Kansas, between Topeka and Kansas City, showing the installation of the electric block signals. Defendants' Exhibit 79 is a section of the Union Pacific track near Kearney, Nebraska. Defendants' Exhibit 80 is the same, from a little different view point. Defendants' Exhibit 81 shows overhead road crossing, in a very deep cut just west of Omaha, on the Lane cut-off. Defendants' Exhibit 82 shows a section of track ballasted with furnace slag, near El Paso, Texas. Defendants' Exhibit 83 is the Bay Shore cut-off, in San Francisco, showing block signalling, separation of street grades, and tunneling. Defendants' Exhibit 84 is a photograph of a crossing of San Francisco Bay at Dumbarton Point. Defendants' Exhibit 85 is a section of present standard Southern Pacific track with rock ballast, ninety pound rail and block signals, near San Jose, California. Defendants' Exhibit 86 shows a reinforced concrete passenger station at Santa Barbara, California. Defendants' Exhibit 87 shows a masonry passenger station at Tucson, Arizona. Defendants' Exhibits 88 and 89 are photographs of the trestle and station in the middle of Salt Lake, with passing side tracks on trestle work, Lucin cut-off, Southern Pacific Company, near Ogden, Utah. De-
fendants' Exhibit 90 shows a rock ballasted curve between
6905 Del Rio and Sanderson, Texas. Defendants' Exhibit 91 shows 90 pound rail and gravel ballasted track near El Paso. Defendants' Exhibits 92 and 93 show standard 90 pound track near

Sierra Blanca, Texas. Defendants' Exhibit 94 shows a brick passenger station at Beaumont, Texas. Defendants' Exhibit 95 shows a brick passenger station at San Antonio, Texas. Defendants Exhibits 95 and 96 are the same; San Antonio. Defendants' Exhibit 97 shows a new steel bridge over Berwick's Bay, 80 miles west of New Orleans, Louisiana. Defendants' Exhibit 98 shows signal bridges and interlocking in the freight passenger yards at Houston, Texas.

Q. Are you able to give us some information with respect to the annual expenditures per mile for maintaining roadbed and equipment on the Union Pacific system and Southern Pacific system, for the last decade; supplementing it with comparative figures related to other lines, if you have the information?

A. For the last decade, for instance, the amount spent for maintaining track and equipment, per mile, on the U. P. system, averaged $2,327; on the Southern Pacific, $2,676; on the Atchison, $2,282; Northern Pacific, $2,095; Great Northern, $1,648; Denver & Rio Grande, $1,738; Chicago & Northwestern, $1,921; Chicago, Milwaukee & St. Paul, $1,633.

Q. Have you some figures for the mileage of these automatic signals that you have been speaking of?

A. Yes. On June 30th, 1909, the Union Pacific and Southern Pacific systems had in operation 5,324 miles of line protected with these signals. In 1901 they had 89 miles. On the 1st of January, 1910, there were only 14,419 miles in operation in the entire
6906 United States. The Union and Southern Pacific had considerably over one-third of the entire mileage operated with those signals, in the United States. I have said, several times, that these signals were the most modern and improved that we could find. As we have put these in, in the past few years, we have adopted the most modern and most efficient type. These signals not only notify a train by the setting of two signals, of danger ahead of it, that there is a train, or a broken rail, or an open switch within two blocks ahead of it; but they also maintain two signals, at all times, of danger behind a train; so that, as the train passes over the road it keeps two signals always set ahead of it, and two signals set behind it, so as to protect againt collision of either approaching or following trains. In addition to that, the signals give warning of broken rails, or of open switches, or of a car blown out of a switch on to the main line, or of any metallic obstruction, such as a rail laid from one rail to another for wrecking purposes, the theory being this: That the signal is maintained at safety by an electric current that is sent through the rails. Anything that breaks the continuity of that current sets the signal at danger, so if a rail breaks the signal is set at danger, or if a switch is open, breaking the continuity of the main line, the signal goes to danger; if an iron bar or rail is set across the track for the purpose of wrecking a train, that lets the current escape and sets the signal of danger. If the wheels of a car escape out of a sidetrack to the main line, they set the signal of danger; and, of course, if a train

is ahead, the axle connecting the two rails sets the signal of danger. So you get, in that way, protection not only against collision, but against broken rails, open switches, wash-outs that may break
6907 the track, landslides that may break the track; and it is largely to those signals that the increased safety of operation has been brought about.

Q. Now I will ask you if you have a statement exhibiting briefly the betterments and additions on the route Omaha to San Francisco, and the route New Orleans to San Francisco, for the eight years ending June 30, 1909.

A statement was produced, marked Defendants' Exhibit 99, offered in evidence by defendants, and is as follows:

DEFENDANTS' EXHIBIT 99.

(Kruttschnitt.)

Betterments and additions to corporations making up the respective through routes, Omaha to San Francisco and New Orleans to San Francisco, for 8 years ending June 30, 1909.

	Corporations in route Omaha-San Francisco.			Corporations in route New Orleans-San Francisco.		
	U. P. R. R.	C. P. Ry.	Total.	Sunset Lines.	S. P. R. R.	Total.
Total mileage of corporations	3,307	1,523	4,827	2,349	3,279	5,628
Total mileage in through routes	1,000	787	1,787	1,193	1,282	2,475
ITEMS.						
Ballasting and widening embankments	$1,611,467.11	$1,059,100.27	$2,670,567.38	$463,002.75	$1,232,676.76	$1,695,679.51
Bridges, trestles, and culverts	1,953,146.11	1,682,647.23	3,635,793.34	1,454,114.10	1,850,894.77	3,305,008.87
Interlocking and block signals	1,811,966.37	1,033,960.92	2,845,927.29	394,098.39	1,142,010.13	1,536,108.52
Sidings and passing tracks	2,032,446.67	2,138,958.11	4,171,404.78	1,563,607.25	2,886,984.18	4,450,591.43
Roadway and shop machinery and tools	97,429.61	838,402.57	935,832.18	313,603.23	606,637.11	920,240.34
Station buildings and fixtures	291,764.48	351,350.67	643,115.15	554,825.59	634,842.08	1,189,667.67
Water stations	748,681.46	377,253.28	1,125,934.74	245,691.45	625,553.03	871,244.48
Engine houses, shops, and turntables	2,074,428.96	1,598,907.43	3,673,336.39	462,865.82	894,991.32	1,357,857.14
Fuel stations	138,142.47	409,967.49	548,109.96	555,807.21	801,402.64	1,357,209.85
Miscellaneous structures	743,983.81	528,000.57	1,271,984.38		509,971.18	509,971.18
Telegraph lines	308,199.35	232,510.00	540,709.35		128,394.10	128,394.10
Right of way and station grounds	778,810.55	476,256.81	1,255,067.36	186,934.61	852,662.53	1,039,597.14
Real Estate	269,881.21		269,881.21	338,394.30	876,923.13	1,215,317.43
Docks and Wharves	.00	237,949.21	237,949.21		250,892.25	250,892.25
Second main track	7,720,918.49	1,669,497.54	9,390,416.03	46,691.21	839,228.53	885,919.74
Various other items	350,402.86	695,651.35	1,046,054.21	1,310,139.18	720,314.40	2,030,453.58
Total	$20,931,669.51	$13,330,413.45	$34,262,082.96	$7,889,685.09	$14,854,378.14	$22,744,063.23
Reconstruction and changes in line	3,061,026.10	8,283,233.00	11,344,259.10	18,411.01	838,100.98	856,511.99
Omaha-Lane Cut-off	3,841,643.85		3,841,643.85			
Ogden-Lucin Cut-off		8,358,833.71	8,358,833.71			
Bay Shore Cut-off						
Montalvo-Burbank Line					9,273,055.58	9,273,055.58
					2,425,911.90	2,425,911.90
Grand total	$27,834,339.46	$29,972,480.16	$57,806,819.62	$7,908,096.10	$27,391,446.60	$35,299,542.70

NOTE.—Above excludes rolling stock, floating equipment, and construction of new lines.

6909 WITNESS. This is a statement headed "Betterments and Additions to corporations making up the respective through routes Omaha to San Francisco and New Orleans to San Francisco, for the eight years ending June 30, 1909."

Q. You have headed the statement here "Corporations in route Omaha-San Francisco," and "Corporations in route New Orleans-San Francisco." What you have in mind, I assume, is the physical line Omaha to San Francisco via Ogden, and the physical line New Orleans to San Francisco via El Paso, which we have been contrasting here, frequently, as the "Ogden Route" and the "Sunset Route?"

A. Yes; in other words, the two routes of the Southern Pacific.

Q. Now will you proceed.

A. The corporations in the route making up the Omaha-San Francisco line are the Union Pacific Railroad Company and the Central Pacific. There were spent in betterments and additions, for the Union Pacific, on that particular line, in those years, $27,834,000; on the Central Pacific, $29,972,000. On the betterment of their through line, $57,806,000. On what is known generally as the Sunset Line, from New Orleans to San Francisco, there was spent on the
6910 lines in Texas, or east of El Paso, that are headed "Sunset Lines" on this statement, $7,908,000; on the Southern Pacific Railroad (which is the corporation covering the line from El Paso to San Francisco) $27,391,000. Total for the New Orleans-San Francisco line, of $35,299,000. This excludes rolling stock and floating equipment. Of course the Sunset Line is made up partly by water line, and the value of the steamships and floating equipment is not in these betterments, nor is the rolling stock.

Q. I call your attention to the item of "Second Main Track," $9,390,416.03, under the "Omaha-San Francisco" tabulation, and, as against that in the tabulation for the route "New Orleans-San Francisco" $885,919. Much of the difference, therefore, between the two routes, in respect to betterments, is explainable by reference to that one item, is it not, of "Second Main Track?"

A. Yes. Eliminating that, it would make the total for the Ogden line about $48,000,000, and it would leave the other——

Q. If you will allow me to interrupt you—I had in mind the total, $34,000,000. I am speaking now strictly of betterments.

A. Of yes, of the betterment items, outside of reconstruction? It would reduce the Omaha-San Francisco twenty-five million and leave the other about twenty-two.

Q. Can you state briefly the situation in reference to second main track upon the one route and upon the other, which explains this difference?

A. Yes, in two words. It is a question of traffic density. The traffic density, that is the amount of traffic per mile, over the one route, is so much greater than the other, that the second main track on the line from the Missouri River to San Francisco Bay is one of the most urgent needs of the present day. On the other line the traffic
6911 is so much lighter that that necessity has not been felt, except

around extremely important traffic centers; for instance, around Houston, Texas, we have a few miles of double track; and out of our New Orleans Terminals we have some double track; in the sugar districts of Louisiana we have a piece of double track; around Los Angeles, north and south, we have double track; and north and south out of San Francisco. But the mileage of second track on the Southern Pacific is smaller. The traffic density on the Ogden route is just double what it is on the other.

Q. I assume that this difference in traffic density would be reflected to some extent in the difference of automatic signal mileage, as between the two routes, would it not?

A. Necessarily. The installation of automatic signals is extremely expensive, not only in first cost but in the cost of maintenance; because it is a delicate bit of machinery, and requires a great deal of watching, and, unless in the highest state of efficiency, it is useless; so, of course, we have selected the mileage where the returns from this protection would be greatest. Those are the high speed lines of high traffic density.

Q. And they are the lines that need the improvement most, are they not?

A. Unquestionably.

Q. I also call your attention to the item of "Reconstruction and changes in line," of eleven million plus, assignable to the Omaha-San Francisco route, and the item of $856,511, which is attributable to the New Orleans-San Francisco route. Have you anything to say in reference to the difference between those items?

6912 A. Yes; there are two reasons at work there. The first one is the same one that I have mentioned—traffic density. When we consider the question of reconstruction of a piece of track, the elimination of curves and grades, the cost of the improvement is studied, and a very careful estimate made of the economies that will result from the changes. The economies, of course, are directly proportional to the density of traffic. In other words, if the new line will shorten the distance two miles, and there is one train a day over that track, it is not very much of a saving. But if there are 40 trains a day over that track, and each one saves two miles, in the aggregate the saving is very large. And when the proposition is presented to the directors, the saving in operation, based generally, for conservatism, on the traffic of the present time, is capitalized at the ruling rate of interest; and if that capitalization will build a line, it is always authorized. If not, we may be told that the time is not ripe yet; that the traffic should get a little denser before warranting that expense; or, with the existing increases of traffic, they may conclude to anticipate the increases and authorize it today and take their return a year or two hence. That is one reason why more reconstruction was done on the Ogden line. The traffic is much more dense, and expenditures are warranted there, under that traffic, that would not be warranted under the traffic of the Sunset Line, which averages only half as much. The other reason why the reconstruction expense

is so much greater is this: That the Union and Central Pacific lines were completed in 1869, were l[illegible] and begun in the early sixties. The Sunset Lines were completed in 1883. Counting from the times of completion, that was practically 14 years later; and the standards of railroad construction had risen very much in those 14 years.

6913 The Sunset Line in the beginning was built to higher standards of location and ruling grades than were the Union and Southern Pacific. In other words, the ruling grades on the Sunset Line, with the exception of a few spots in Arizona, were 1 per cent (52.8 feet to the mile). On the Central Pacific they were 116 feet to the mile—more than double as much. Again, the Central and Union went through much more mountainous country than the Southern; and the original alignment of the Southern Pacific was very much better than the alignment of those two. Therefore the necessity to reconstruct and improve was not as great on the Sunset Line as it was on the others, and never will be. The Sunset Lines west of San Antonio were built, from one end to the other, with the highest grade of metal bridges that were built at the time of their construction; built almost uniformly on masonry piers. On the old Central and Union Pacific all of the bridges were wood.

Q. Now, have you charted the improvement in physical condition since June 30, 1901, of the main line Council Bluffs to Oakland pier, compared with the main line Algiers to San Francisco?

A. I have.

Q. "Algiers" being the term that is less frequently used instead of "New Orleans", which is more familiar—New Orleans to San Francisco?

A. I have it charted. I don't know how much of it you want me to read.

Q. I think it will be sufficient if you will read the first column, mileage of first main track, and the numerical showing against it. What was the mileage of main track?

A. The mileage of first main track, on the Council Bluffs line, was 4 per cent less in 1909 than in 1901; due, of course, to the elimination of a little mileage by reconstruction. On the Sunset Line,

6914 it was 1 per cent less. The mileage of additional main tracks, on the Council Bluffs line showed an increase of 402 per cent; on the Sunset Line, 143 per cent. The mileage of all main tracks on the Council Bluffs line showed an increase of 16 per cent; and on the Sunset Line, of 2 per cent. There was expended on maintenance of road-bed and structures, per mile of road operated, on the Council Bluffs line, 19 per cent more, and on the Sunset Line 62 per cent more in 1909 than in 1901. The percentage of total road laid with 80 pound rail or heavier, increased from 18 per cent in 1901, to 81 per cent in 1909, on the Council Bluffs line; and from 6 per cent in 1901 to 60 per cent in 1909 on the Sunset Line. Miles of rail 75 and 76 pounds, was 35 per cent on the Council Bluffs line in 1901; 19 per cent in 1909; and was 49 per cent on the Sunset Line in 1901, and 40 per cent in 1909.

Q. Does that mean the substitution of heavier rail?

A. No, it means simply the rails of that particular weight. We would call those medium weight of rails. The classification has been "heavy" rails 80 and over; "medium" 75 and 76; and "light" 70 and under.

Q. What is the point of your comparison between 1901 and 1909 in respect to these 75 and 76 pound rails?

A. I said that in 1901 35 per cent of the total mileage was laid with 75 pound rails.

Q. And reduced to 19 per cent in 1909, as I understand it?

A. In other words, the three statements together show the gradual retirement of light rail and the substitution of the heavier rail.

6915 The miles of rail 70 pounds or under, which we would class as light rails now, on the Council Bluffs line was 47 per cent of the total, in 1901, and was nothing in 1909. On the Sunset Line it was 45 per cent in 1901, and was nothing in 1909. Miles of fully ballasted track was 57 per cent of the total on the Council Bluffs line in 1901; 92 per cent in 1909; on the Sunset Line, 62 per cent in 1901; 72 per cent in 1909. Miles of track fully protected with tie-plates, Council Bluffs line, 19 per cent in 1901; 95 per cent in 1909. On the Sunset Line 78 per cent in 1901, 96 per cent in 1909. Miles of track protected by automatic signals, on the Council Bluffs line, none in 1901; 96 per cent in 1909. On the Sunset Line, 1 per cent in 1901, and 54 per cent in 1909. Per cent of timber trestle, built of timber treated with creosote; Council Bluffs line 12 per cent in 1901, 32 per cent in 1909. Sunset, 56 per cent in 1901, and 80 per cent in 1909. Percentage of ties burnettized, on the Council Bluffs line, 26 per cent in 1901; 60 per cent in 1909. On the Sunset Line, 26 per cent in 1901, 39 per cent in 1909. The increase in the length of sidings in the eight years ending June 30, 1909, between Council Bluffs and Oakland pier, was 292 miles; and between Algiers and San Francisco 479 miles.

Q. I see you have a statement here of "Miles of each weight of rail in main tracks."

A. Yes.

Q. 1901 to 1909. I think if you will give that we will complete the chart. You might give the increase and decrease.

A. On the Council Bluffs line, between 1901, and 1909, there was an increase of 803 miles of 90 pound rail; 679 miles of 80 pound rail; with decreases of 172 miles of 76 pound rail; 74 miles of 75; 551 of 70; 21 of 67; 344 of 60 and 62, and 1 each of 56 and 50. On the

6916 Sunset Line there was an increase of 1 mile of rail weighing 141 pounds to the yard.

Q. That must have been in some yard, I suppose?

A. It is a city rail; it is the girder rail in cities. 256 miles of 90 pound rail; 1163 miles of 80 pound rail. The decreases were 139 miles of 76, 60 miles of 75, 972 miles of 60 and 62, 3 miles of 56, 50 miles of 54, and 121 miles of 50 and 52.

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Q. Have you a statement as to the bridges between Algiers and El Paso, built in the eight years ending June 30, 1909?

A. Yes. There were forty built, aggregating 14,103 feet, which would be nearly 3 miles.

Q. What was the material used in the construction of those bridges?

A. Steel and masonry.

Q. What was the total cost?

A. $2,339,000.

Q. What was the amount expended in strengthening trestles?

A. $384,000.

The paper last testified from by the witness was offered in evidence by the defendants and marked Defendants' Exhibit 100.

Defendants' Exhibit 100 faces page 4114.

An adjournment was then taken until the morning of Friday, February 18, 1910, at 10:30 o'clock.

6917 ROOM 720, CUSTOM HOUSE, NEW YORK CITY,
Friday, February 18, 1910, 10:30 A. M.

The hearing was resumed before the Special Examiner, Hon. Sylvester G. Williams, at the above time and place.

Present: On behalf of the Complainant, Mr. C. A. Severance, Mr. Frank B. Kellogg, Mr. G. E. Husted; on behalf of the Defendants, Mr. Peter F. Dunne and Mr. N. H. Loomis.

JULIUS KRUTTSCHNITT

recalled.

Direct examination, resumed by Mr. DUNNE:

Q. Mr. Kruttschnitt, in connection with the last exhibit that we offered, have you prepared a statement for the Union Pacific-Southern Pacific system, an arithmetical statement, showing the improvements annually, on each system, from 1901 to 1909?

A. Yes, I have such a statement, typewritten, showing the same things that were shown on the chart.

A statement produced by the witness was marked Defendants' Exhibit 101.

Q. Referring to Defendants' Exhibit 101, without taking you through the several years, will you take the various items for the years 1902 and 1909, and let us have those items, as you go down the line with each system.

A. For the Union Pacific system, new locomotives purchased in 1902, 60; in 1909, 6. Total for eight years ending June 30, 1909, 522.

Q. In connection with those locomotives for 1909, will you read the number of locomotives for 1907 and 1908?

A. In 1907, 179 were purchased, and in 1908, 48.

6918 Q. Now, passenger cars.

A. Passenger cars: in 1902, 23 were purchased; in 1909, 22.

Q. Will you give me the numbers for 1907 and 1908, also, of passenger cars.

A. In 1907, 76; in 7908, 57. Total for the eight years, 258.

Q. Freight cars.

A. Freight cars: In 1902 we bought 303; in 1903, 649; 1904, 1701; 1905, 858; 1906, 2175; 1907, 3109; 1908, 1378; 1909, 2326. Total for the eight years, 12,499.

Q. Work cars.

A. Work cars: In 1902 we bought 10; 1903, 7; 1904, 107; 1905, 36; 1906, 60; 1907, 171; 1908, 312; 1909, 4. Total for the eight years, 707.

Q. I now call your attention to miles of new steel rail laid. Will you give us the number of miles for each year, please?

A. In 1902, 550; 1903, 196; 1904, 220; 1905, 292; 1906, 417; 1907, 288; 1908, 215; 1909, 250. Total for the eight years, 2428.

Q. In respect to the number of cross-ties renewed, I will ask you to give the total of that.

A. In the eight years ending June 30, 1909, 17,220,000 cross-ties were renewed.

Q. What is the corresponding expression in mileage for that renewal?

A. It is equivalent, in miles, to 6,146.

Q. What was the total for the same period, of tie-plates used?

A. 15,766,000; equivalent in miles to 2,818.

Q. Will you give me the total miles of track ballasted, for those years?

A. 1,455.

Q. In respect to wooden bridges, as expressed in lineal feet, and their replacement by permanent bridges or embankments, will you give me the total for those eight years?

A. 88,256 feet.

Q. Have you a similar expression (and I ask for the total only, as to iron or concrete bridges put in?

6919

A. Yes. There were put in 54,398 feet.

Q. What is the total with respect to new sidings?

A. 659 miles were built.

Q. And old sidings taken up?

A. 159.

Mr. SEVERANCE. You mean that the net result was 500 miles more of siding.

WITNESS. That is correct.

Q. In respect to the Southern Pacific Company, can you give me the total new locomotives purchased for that same period?

A. The Southern Pacific Company purchased 920 locomotives in the eight years.

Q. And what were the totals for passenger cars and freight cars respectively?

A. Passenger cars, 881; freight cars, 26,471; work cars, 2,489.

Q. What was the total number of miles of new steel rail laid?

A. 3,970.

Q. And can you give me the number of cross-ties renewed for the Southern Pacific Company, with the equivalent in miles?

A. Cross-ties renewed: 24,372,000; equivalent in miles to 8,555.

Q. The number of tie-plates used, with a similar equivalent?

A. The number of tie-plates used was 25,696,000; equivalent in miles to 4,542.

Q. What was the total number of miles ballasted?

A. 1,447.

Q. Expressed in lineal feet, what was the replacement in wooden bridges, during the same period?

A. 136,411.

Q. On a similar expression in lineal feet, what is the showing as to new iron or concrete bridges?

A. 49,826 lineal feet.

6920 Q. Expressed in miles, what is the showing for new sidings built and old sidings taken up, respectively?

A. 1231 miles of new sidings were built, and 269 miles of old sidings taken up.

Mr. DUNNE. We offer in evidence defendant's exhibit 101.

Defendants' exhibit 101 is as follows:

DEFENDANTS' EXHIBIT 101.

(Kruttschnitt)

Union Pacific System—Southern Pacific Company, improvements made annually since 1901.

Union Pacific System.	Year ending June 30th—								Total—8 yrs. ending June 30, 1909.
	1902.	1903.	1904.	1905.	1906.	1907.	1908.	1909.	
New locomotives purchased	60	54	68	33	74	179	48	6	522
" passenger cars "	23	20	17	15	28	76	57	22	258
" freight " "	303	649	1,701	858	2,175	3,109	1,378	2,326	12,499
" work " "	10	7	107	36	60	171	312	4	707
Miles new steel rail laid	550	196	220	292	417	288	215	250	2,428
Number cross-ties renewed	1,810,170	1,706,706	2,360,934	2,572,964	2,243,134	2,182,891	2,370,845	1,972,500	17,220,144
Equivalent miles	645	609	851	930	797	765	845	704	6,146
Number tie plates used	720,044	600,252	1,333,347	1,474,355	3,378,058	3,181,541	2,404,506	2,674,101	15,766,204
Equivalent miles	129	107	243	266	610	558	428	477	2,818
Miles track ballasted	499	231	238	219	163	62	14	29	1,455
Wooden bridges replaced by permanent, or embankments, (lineal) ft.	23,756	19,856	13,875	7,335	7,682	7,726	4,774	3,252	88,256
New iron or concrete bridges put in lineal feet	8,187	9,426	8,823	3,304	5,840	13,017	3,709	2,092	54,338
New sidings built	78.83	75.26	57.50	69.61	121.68	78.23	89.01	88.97	659.09
Old " taken up	22.15	5.59	26.44	18.22	28.86	24.93	14.08	19.67	159.94
SOUTHERN PACIFIC COMPANY.									
New locomotives purchased	144	128	104	165	91	136	144	8	920
" passenger cars "	132	92	211	66	125	99	107	49	881
" freight " "	5,453	6,767	366	2,442	2,956	2,471	2,854	3,162	26,471
" work " "	623	571	27	18	762	141	63	284	2,489
Miles new steel rail laid	614	677	482	578	419	355	304	541	3,970
Number cross-ties renewed	3,015,745	2,576,479	2,341,300	3,011,910	3,416,998	2,783,903	3,948,608	3,277,392	24,372,305
Equivalent miles	1,043	900	825	1,047	1,191	977	1,410	1,162	8,555
Number tie plates used	4,501,067	3,720,128	2,264,502	2,496,314	3,219,753	2,369,693	3,053,358	4,071,970	25,696,785
Equivalent miles	779	652	399	434	561	450	545	722	4,542
Miles track ballasted	245	210	116	226	340	180	86	44	1,447
Wooden bridges replaced, lineal feet	12,184	15,506	18,949	23,648	14,803	16,595	16,812	17,914	136,411
New iron or concrete bridges put in, lineal feet	4,492	4,381	9,133	11,577	1,764	6,974	7,658	3,847	49,826
New sidings built	156.14	183.61	254.61	159.86	127.47	104.86	105.17	140.04	1,231.76
Old " taken up	29.83	33.27	25.10	42.93	55.87	39.20	18.91	24.49	269.60

CHARTS

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6922 Mr. DUNNE. Mr. Severance, without delaying to send for the exhibit, with your permission I will ask to have the year 1901 changed to the year 1908, in defendants' exhibit 68, in the last three sentences.

Mr. SEVERANCE. What is the heading of it?

Mr. DUNNE. It is headed "Southern Pacific Company earnings per ton mile."

Mr. SEVERANCE. What do you want to change?

Mr. DUNNE. I want to change "1901" to "1908", in the last three assignments of tonnage. That should be 1908.

Mr. KELLOGG. For the one year?

Mr. DUNNE. Yes. It was a typographical error.

Q. I understood you to say, yesterday, that the passenger service was more frequent on the Omaha line as compared with the Sunset, in view of the greater train density there. What is the character of the passenger train service on the Sunset Line, as to its quality?

A. It is quite up to that on the Omaha line, except as to frequency.

Q. How does the freight service on the Sunset Line compare with the freight service on the Omaha line as to speed?

A. The actual movement of the freight trains, you mean?

Q. Whether a greater speed is made on the Sunset freight trains than on the Omaha freight trains.

A. It is slightly greater on the Sunset Line.

Q. That would be attributable, I apprehend, to the same consideration—traffic density, would it not, to some extent?

A. No, the speed of a freight train would not depend on the traffic density.

Q. That is to say, there is a somewhat freer track for the

6923 operation of freight.

A. Much less obstruction, of course, by trains.

Q. Yes.

A. Yes, to that extent; the movement of the trains is less impeded by meets of opposing trains.

Q. Have you a statement for the last year, of the speed of trains on the Omaha-San Francisco line and on the New Orleans line, expressed in terms of miles per hour?

A. Yes. On the Omaha-San Francisco line the average speed of freight trains, excluding stops, was 17.10 miles per hour; on the New Orleans-San Francisco line, 18.06.

Mr. SEVERANCE. That is the actual movement of cars, or the schedule?

WITNESS. That is the actual time made by the trains, as taken from the train sheets. To be more explicit still, it is taken from a form that is rendered every month, showing the actual speed of freight trains, excluding stops.

Q. Have you prepared a showing of the average speed of all freight trains, in miles per hour, and relative number of meeting points of all trains, including in that a specification for the Union

Pacific, the Oregon Short Line, the Navigation Company, and the Southern Pacific?

A. I have.

The witness produced a chart, which was marked Defendants' Exhibit 102.

Defendants' Exhibit 102 was offered in evidence by defendants, and faces page 4119.

6924 Q. Will you please explain that exhibit?

A. Defendants' exhibit 102 shows, in the diagram in the upper left-hand corner, the average speed of all freight trains, between the years 1900 and 1909. It shows that the speed was reasonably uniform up to 1907, when there was a sharp drop in 1908, and it has been reasonably uniform in 1908 and 1909.

Mr. SEVERANCE. Can't you express that in miles per hour, approximately, in this diagram?

A. It was reasonably uniform, between 17 and 17½ miles per hour, up to 1907, when there was a drop to 16½ miles per hour, at which it remained during 1908 and 1909.

Q. Are you now speaking of the average speed of all freight trains?

A. Yes. I started my answer by defining that.

Mr. SEVERANCE. That is, on the four lines? On the Union Pacific, Short Line, O. R. & N. and Southern Pacific?

Mr. DUNNE. Yes.

WITNESS. The second diagram relates to the Union Pacific Railroad proper; the full line showing the freight train speeds, and the dotted line above it showing the relative number of meeting points in the different years. The next diagram shows the same data for the Oregon Short Line.

Mr. SEVERANCE. Won't you fix that in miles?

Q. Referring to the Union Pacific Railroad, can you convert the graphic statement there into an arithmetical statement?

A. Yes.

Mr. SEVERANCE. It is made up on a percentage basis?

WITNESS. I overlooked the fact that the basis of comparison changed in the second diagram. I will explain that now. In the second diagram, instead of being actual figures, in the left hand

6925 marginal column, they are relative, based on unity in the year 1900. That is to say, the lower lines, showing freight train speeds, show that in 1909 the freight train speed was 87 per cent of what it was in 1900; and the number of meeting points was 47 per cent more than they were in 1900. As to the Oregon Short Line, freight train speeds in 1909 were approximately 10 per cent more than they were in 1900, and meeting points 65 per cent more. On the Oregon Railroad & Navigation Company, the speed in 1909 was about 95 per cent of what it was in 1902, the record being missing prior to that time. The meeting points increased by about 45 per cent. On the Pacific system of the Southern Pacific Company, freight train speeds in 1909 are almost exactly the same as they were

in 1900—a very trifling increase. The meeting points are 50 per cent greater.

Q. Was the freight train speed exclusive or inclusive of stops?

A. The figures being relative, it would be the same either way. All these data were made up from these forms of ours, which exclude stops. But I want to call attention to the fact that, whilst that would change the actual speed of trains, it does not change their relation. All of these figures except the first diagram, relate to relative speeds and relative meeting points.

Q. I notice on the diagram in reference to the year 1907,—that seems to be, if I may use the expression, the summit. What was the condition in respect to freight traffic, characteristic of that year, from the point of view of congestion? Was there much congestion at that time?

A. 1907 was an entirely abnormal year. All of the lines west of the Mississippi River—and I don't know but I might omit that and say all of the lines in the country were offered such quantities of freight that it was very much delayed; and October 1907 also marked
6926 the time of the panic; and the sharp drop in the meeting points of trains after 1907 was due to the reduction of traffic following the panic.

Q. Have you a memorandum attached to your exhibit, converting the expressions that you have derived from the chart, into any other form of expression?

A. Yes, I have a typewritten statement, giving the actual speeds, in miles per hour, which covers the same period as the chart. With the Union Pacific, Oregon Short Line and Navigation Company we could not get the data prior to 1902. For the Southern Pacific Lines we have them from 1900, and for the Union Pacific system lines from 1902 to 1909.

Q. Will you read those figures, please?

A. Do you want every line? In every year?

Q. No, make it just as brief as you can, but so that it will not interrupt the continuity of your testimony.

A. For the Union Pacific in 1902, the actual speed was 18.7 miles an hour; 1903, 17.6; 1904, 17.0; 1905, 16.5; 1906, 17.6; 1907, 18.4; 1908, 16.9; 1909, 16.3. Oregon Short Line, in 1902——

Mr. SEVERANCE. May I ask a question there? That is actual speed, exclusive of stops, I suppose, the same as the other?

WITNESS. Yes. Oregon Short Line, in 1902, 15.8; 1903, 16.4; 1904, 16.7; 1905, 17.0; 1906, 17.1; 1907, 17.2; 1908, 16.9; 1909, 17.5. For the Oregon Railroad & Navigation Company, in 1902, it was 15.9; 1903, 16.5; 1904, 16.6; 1905, 16.1; 1906, 15.8; 1907, 15.4; 1908, 14.5; 1909, 14.9. For the Pacific system of the Southern Pacific Company, in 1900 it was 17.5; 1901, 17.7; 1902, 17.8; 1903, 18.0; 1904,
6927 17.9; 1905, 17.6; 1906, 17.8; 1907, 17.3; 1908, 17.11; 1909, 17.7. For the Southern Pacific lines east of El Paso (or the Sunset Central lines, as they are called for brevity), in 1900, 16.8; 1901, 16.0;

1902, 16.1; 1903, 15.7; 1904, 16.6; 1905, 17.1; 1906, 16.8; 1907, 16.8; 1908, 15.8; 1909, 16.1. For all of the lines of the Southern Pacific in 1900, the speed was 17.3; in 1901, 17.02; and for all the lines, in both Union and Southern Pacific systems, in 1902, the speed was 17.2; 1903, 17.1; 1904, 17.2; 1905, 17.1; 1906, 17.3; 1907, 17.6; 1908, 16.7; 1909, 16.8.

Q. Since 1901 what have been the conditions of transportation, taking an equal volume of traffic, with respect to the number of trains in which that volume of traffic has been moved? Have you moved the same volume of traffic in a greater or in a less number of trains?

A. We have moved the same volume in a very much less number of trains.

Q. Will you please explain the significance of that as bearing upon the character of the service?

A. With the increase of traffic that culminated in 1907, with our roads generally, with single tracks only, the rapid increase of meeting points, with an increase of the number of trains, would have been such that we should not have been able to move the traffic at all; instead of being congested, we would have been absolutely unable to move. And as this increased traffic was offered us, through the purchase of heavier locomotives, and more efficient car and train loading, we were enabled to handle an equal volume of traffic with a largely reduced number of trains. To make my meaning clearer in regard to the obstruction of a single track line by multiplication of
6928 trains: if you have one train in each direction, there can be but one meeting point. If you have two in each direction, each of the two trains can meet either of the other two; and the number of meeting points becomes four. With three trains each way, the number of meeting points would be nine. In other words, the number of meeting points increases by the square of the number of trains in each direction. So if you increase from one train to ten each way, you increase the meeting points from one to ten times one, or one hundred; with the additional obstruction of following trains having to look out for preceding trains. So the obstruction from a multiplication of trains on a single track increases so rapidly that the increase in the number of trains becomes almost prohibitive of traffic, after you double or treble the number of trains that you are handling, if you are handling a reasonable number in the beginning.

Q. Then am I to understand from you, bearing in mind the figures which you have given for the speed of the freight service since 1901, that with the increased traffic, the heavier locomotives, and the longer trains, you have still been able to give the speed that you have indicated by these figures?

A. We have.

Q. How does your freight service upon the Union Pacific-Southern Pacific systems compare with the freight service since 1901 given by other transcontinental lines?

A. Our service is quite as good as theirs. We could not hold our business unless we did give it.

CHARTS

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Q. How does the policy of the Southern Pacific-Union Pacific system in using heavier equipment to handle freight, compare with the policy adopted by the other transcontinental lines?

6929 A. All of the transcontinental Lines are really working on the same policy. In other words, efficient railroad management can be epigrammatically stated to be simply efficient car-loading and efficient train-loading: that is all there is to it. The fellow that gets the most efficient car-loading and the most efficient train-loading, distances his competitors. We are all working on the same lines; and there is only one way to do it. All of the lines are doing it in the same way, because there is no argument possible in that.

Q. Have you prepared a showing pointing out the gain in traffic density and changes in condition? I ask that, having also in mind some testimony in the record as to the lengthening out of the schedule of certain trains between Omaha and Ogden. I will ask you to produce the showing, if you have it, relative to gains in traffic density and changes in condition. I am speaking now of the line between Omaha and Ogden.

A. Yes, I have that charted.

A chart produced by the witness was marked Defendants Exhibit 103, offered in evidence by the defendants, and faces this page.

6930 Q. I will ask you to read the heading of Defendants' Exhibit 103 and to explain it if you will.

A. Defendants' Exhibit 103 shows, for the Union Pacific Railroad proper, the relative traffic over the main line between Omaha and Ogden, between 1896 and 1909, inclusive, the traffic of 1896 being taken as unity. The increase in freight traffic density, shown by the full line at the bottom the chart, was 180%. The increase in train density, which would be the number of trains per mile of road, is shown by the dashed line; and that increased only 80%. Of course, if the trains had not been loaded better, the increase in train density would have been practically the same as the increase in traffic density, or 180%, as shown by the line of dashes and crosses. Now, under existing conditions, that is, the conditions under which the increased traffic was moving, the increase in meeting points, or the handicap to trains in getting over the road, increased 230%. If the traffic had not been handled in a lesser number of trains, the handicap to the movement of freight trains, in the increased number of meeting points, would have increased 680% as against 230.

Q. Have you a statement attached to the chart, converting its graphical descriptions into arithmetical statements for the same period?

A. I have.

Q. On what basis is that estimated?

A. On the basis of car mileage.

Q. Will you state generally the character and showing of that paper?

71535—vol. 9—10 (To face page 4123)

A. This typewritten statement shows, in actual figures, what the chart shows in relative figures; and the foot note "Estimated
6931 on the basis of car mileage," refers to the gross ton mileage in the years 1896, 1897 and 1898, at which times it was not kept, and it means that that was based on estimates of car mileage. In other words, we had the car mileage figures, and we estimated the load and weight of the cars in those three years only. From 1900 to date, we had the actual figures kept. It shows, briefly, that for the Union Pacific Railroad proper, the gross ton miles moved per mile of road (or traffic density, for short) was 2,838,000; in 1900 it was 3,655,000; in 1901, 3,810,000; in 1902, 4,098,000; in 1903, 4,312,000; 1904, 5,468,000; in 1905, 6,520,000; in 1906, 7,349,000; in 1907, 8,087,000; in 1908, 7,765,000; in 1909, 8,114,000. The daily train density of passenger trains in 1896 was 4.5, and freight trains 9.1; a total of 13.6.

Q. Will you give those figures, without reading all of the intervening items, for the years 1907, 1908 and 1909?

A. In 1907 the passenger train density was 11.7; freight, 17.0; total, 28.7. In 1908, the passenger train density was 12.5; freight, 14.2; total 26.7. In 1909, the passenger train density was 12.1; freight 12.7; total 24.8.

Q. Will you give the same figures for the years 1900 and 1901?

A. In 1900 the passenger train density was 6.9; freight 11.1; total 18.0. In 1901, passenger 8.3; freight 11.1; total 19.4.

Q. What is the basis of these figures from and after the year 1900?

A. The actual statistics kept; we kept gross ton mileage after that date. I will say, by way of explanation, to make it entirely clear, that "gross ton miles" means the weight of train and contents.

Q. What is the next item in your statement, after daily
6932 train density?

A. The next column shows what the train density would have been had we not loaded our cars and trains more efficiently.

Q. Will you give that for the years 1896, 1897 and 1898?

A. In 1896, the train density, with no change in the freight train loads, would have been 13.6; in 1897, 14.6; in 1898, 15.8.

Q. Now, will you give it for 1900 and 1901?

A. In 1900 it would have been 18.6; in 1901, 20.5.

Q. What would it have been in 1906, 1907, 1908 and 1909?

A. In 1906 it would have been 34.4; in 1907, 37.6; in 1908, 37.4; in 1909, 38.1.

Q. What is the showing as to meeting points (I speak now of actual) for the years 1896, 1897 and 1898?

A. The actual meeting points in 1896 were 46; in 1897, 51; in 1898, 59.

Q. Will you please give the corresponding figures for 1900 and 1901?

A. In 1900 they were 81, and in 1901, 94.

Q. Now I will ask you to give the corresponding figures for 1906, 1907, 1908, and 1909.

A. In 1906 they were 164; in 1907, 206; 1908, 178; 1909, 154.

Q. You have spoken in your testimony about the character of train loading, but, assuming unchanged freight train load, what would have been the expression for meeting points for the years 1896, 1897 and 1898?

A. In 1896, the unchanged freight load would have had 46 meeting points; in 1897, 53; in 1898, 62.

Q. Will you give the corresponding figures for 1900 and 1901?

A. In 1900 it would have had 86; in 1901, 105.

Q. And the corresponding figures for 1906, 1907, 1908 and 1909.

A. In 1906, we would have had 296; in 1907, 353; in 1908, 350;
1909, 363. In other words, the difference between the actual
6933 meeting points under the more efficient car and train loading in 1909 was 154, and the unchanged freight loading would have been 363, a reduction of 210 meeting points, practically.

Mr. DUNNE. I offer in evidence Defendants' Exhibit 104.

Defendants' Exhibit 104 is as follows:

6934 DEFENDANTS' EXHIBIT 104.

(Kruttschnitt)

Union Pacific Railroad, main line, Omaha to Ogden.

	Gross ton miles per mile of road.	Daily train density.			Train density with no change in frt. train loads.	Meeting points.	
		Pass.	Frt.	Total.		Actual.	With unchanged freight train load.
1896.....	2,838,000#	4.5	9.1	13.6	13.6	46	46
7.....	3,236,000#	4.2	10.1	14.3	14.6	51	53
8.....	3,398,000#	4.9	10.5	15.4	15.8	59	62
1900.....	3,655,000#	6.9	11.1	18.0	18.6	81	86
1.....	3,810,000#	8.3	11.1	19.4	20.5	94	105
2.....	4,098,000#	8.3	10.0	18.3	21.4	84	114
3.....	4,312,000#	10.3	11.7	22.0	24.1	121	145
4.....	5,468,000#	9.9	12.4	22.3	27.5	124	189
5.....	6,520,000#	9.2	12.7	21.9	29.9	120	224
6.....	7,349,000#	10.8	14.8	25.6	34.4	164	296
7.....	8,087,000#	11.7	17.0	28.7	37.6	206	363
8.....	7,765,000#	12.5	14.2	26.7	37.4	178	350
9.....	8,114,000#	12.1	12.7	24.8	38.1	154	363

Estimated on basis of car mileage.

6935 Q. Still pursuing the reference to this main line between Omaha and Ogden, and calling your attention to the 54 hour schedule of 1900, have you a statement of the schedules covering that movement, showing their variations from and after 1900?

A. I have.

Q. Begin, now, at the time of the stock purchase, the spring of 1901 say.

A. In June, 1901, the freight schedule was 58 hours and 25 minutes.

Mr. SEVERANCE. Omaha to Ogden, or Council Bluffs to Ogden?

WITNESS. Council Bluffs to Ogden. November 3, 1901, it was 60 hours and 30 minutes. December 21, 1902, it was 64 hours. January, 1903, it was 82 hours and 10 minutes. October, 1903, it was 74 hours and 20 minutes. November, 1903, 74 hours and 30 minutes. In October, 1907, 100 hours and 45 minutes.

Q. Do those figures represent actual running time, or schedule time?

A. Those were the schedules.

Q. Why was the schedule lengthened in 1907?

A. To meet the conditions that confronted us at that time. We had this panic; we could not reduce expenses, we could not increase revenues; and the problem that confronted the management of roads was how to get satisfactory results without either increasing revenues or decreasing expenses—a pretty tough problem; but it was solved, as I have already shown, by more efficient car loading, more efficient train loading; and, whilst freight takes a little more time to get from Council Bluffs to Ogden, I showed in my testimony yesterday that the bonus paid to the public for that was $154,000,000 in about eight years.

Q. I notice that the larger tonnage in this schedule is attribu-
6936 table to the year 1907. What were the conditions as to density of traffic at that time?

A. Traffic density in 1907 attained its maximum up to that year. It was slightly exceeded in 1909, but it was the greatest in any year up to that time.

Mr. SEVERANCE. Did you state what that train service was in 1908? Let us have the figures since 1907; or are they still the same?

WITNESS. They are the same today as they were in 1907.

Mr. SEVERANCE. Were they the same in 1908?

WITNESS. Yes; we did not make any change in 1908.

Q. How does the maintenance of a fast schedule for any particular freight train affect the general traffic movement?

A. The faster you undertake to run some one particular train, the more you discriminate in its favor, the more other traffic has to suffer, necessarily.

Q. What would you say was the best operating condition for moving the entire traffic between terminals, in respect to speed and loading?

A. As near as possible uniform speed.

Q. Aside from mere operating difficulties, what would be the effect of fast freight train schedules, in respect to certainty of delivery and the ability of carriers to maintain them with regularity?

A. The faster you undertake to run, in the first place, the greater is the liability to accident, and the greater the uncertainty; because you have less of a margin to work on. If you work your locomotives and plant to maximum capacity without any margin for contingencies, if anything happens you are thrown out.

CHARTS

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Q. Could this 54 hour schedule be maintained now?

6937 A. Of course it was not in my time; I understand that it was maintained. And we could maintain it now, by practically sidetracking everything else and making it a preferred train; but we don't want to do that—it is not wise and it is not right.

Q. Upon the same question—the speed of trains, have you prepared a showing or table with reference to the hauling power of the locomotive and the increase of meets?

A. Yes.

A chart was marked Defendants' Exhibit 105, and was offered in evidence by defendants.

Defendants' Exhibit 105 faces this page.

6938 Q. I will ask you to explain Defendants' Exhibit 105.

A. The upper part of the diagram shows by a curve in full line, marked "Relative Density of Trains," immediately under the words "Velocity—Miles per Hour," the speeds from 10 up to 45 miles an hour. At the bottom of the sheet it shows the relative number of meeting points, increasing from 1, at the lefthand, to 83, at the right hand. In other words, to move a given amount of traffic, if we follow that curve from the left up to the right, moving the traffic say at 10 miles an hour, the actual number of meets would be 1. If we take the same traffic and split it up into more trains and move it at 45 miles an hour, we would increase the meets to 83. A further disadvantage is shown in the bottom half of the diagram on the two lines marked "Relative Total Weight of Train including Locomotive and Tender" and "Relative Total Weight of Train excluding Locomotive and Tender." Following the upper line from the lefthand corner of the diagram shows that if the hauling power of a given locomotive be 100 at 10 miles per hour, it falls to 42 at 30 miles per hour; that is to say, the locomotive can haul only 42 per cent as much of the load, including her own weight, at 30 miles per hour, as she can at 10. If the speed be increased to 45 miles per hour, she can only haul about 20 per cent of what she can at 10. This explains why we have kept the speed of our trains low: firstly, because we did not want to run locomotives without hauling loads; we did not want to increase meeting points and impede the movement of these trains so we could not get them over the road,

6939 and we were confronted with the problem of how to show results from the traffic moved in the face of very large increases in the rates of pay to employees and in the prices paid for materials, without any increase in the rates.

Q. What is the lower curve in the diagram designed to convey? I mean the lower of the two curves, in the lower half of the diagram.

A. That is the same as the upper one, but it excludes the locomotive and tender. In other words, it would be the paying load, and it shows that if the speed is increased from 10 to 45 miles an hour that the locomotive will only haul about 10 per cent of the weight that she will haul at the lower speed, after furnishing the power to

haul herself and tender. In other words, her efficiency is almost gone. If the curve were run a little farther down she would have capacity to move only herself and tender and no load.

Mr. SEVERANCE. Will you be kind enough, Mr. Dunne, to have him explain that upper line.

Q. At the request of Mr. Severance I am asking you to go somewhat more into detail in explanation of the upper curve, if you will.

Mr. SEVERANCE. In connection with the percentages on the margin.

A. The curve shows that to move a given traffic at 10 miles an hour—or if to move a given traffic at 10 miles an hour requires a density of unit of train, to move the same traffic at 45 miles an hour would require a density nine times as great.

Q. Have you some figures before you illustrating in a general way how a 54-hour schedule would affect the line between Council Bluffs and Ogden? Take last year's traffic, for instance.

6940 A. Based on last year's traffic, when the daily train density was 12 passenger trains and 13 freights, or a total of 25 trains, the actual freight speed run was 17 miles per hour; the average train load was 700 tons of freight. Now, to increase that speed to the 54-hour schedule as compared with a 100-hour schedule, which means an increase in percentage of 85 per cent, would have required an increase from 17 miles per hour to 31 miles per hour.

Q. What would be the relative locomotive hauling power?

A. Calling the power of a locomotive to haul freight at 17 miles per hour unity, at 31 miles per hour it would have been only 48 per cent of unity.

Q. The expression of unity being 100, I apprehend?

A. Being 100. I have already said that the weight of the train at 17 miles per hour was 700 tons. It would have had to be reduced to 336 tons for the higher speed, and the number of trains required to move the same traffic would have been, of course, as to passenger trains 12 and freights 27—a total of 39 as against 25 under existing conditions, and the number of meets would have been 2.43 times as many.

Q. If you assume, then, that the meets of the 25 trains are 100, the meets of the 39 would be 243?

A. Exactly.

Q. Mr. Kruttschnitt, has not double tracking made faster speed somewhat more practicable?

A. It has helped out of course to the extent that we have gotten in the double track. The double track is not continuous, but on the pieces we have got it in it has helped immensely.

Q. Can you express that in figures or percentages?

6941 A. Yes; we have only 40 per cent of the Union main line double tracked, 60 per cent is still single track, and of course the single track, I might say, is the weakest point of the chain from a traffic point of view and really limits the capacity of the road, but wherever we do get a piece of double track on that road it helps immensely.

Q. But the fact that the road is double-tracked only partially must be taken, as I understand you, in connection with the fact that even that partial improvement is limited and discounted by the single track?

A. Unquestionably.

Q. Do you know of any other lines now maintaining as fast a schedule as 54 hours?

A. No, I do not.

Q. What is the condition of tracking on the New York Central as to double tracking or excess of double tracking? Have they any four-track lines?

A. The New York Central moves most of its freight on the west side of the Hudson River, where it has the West Shore road; on the east side of the Hudson to Albany there is double track; from Albany to Buffalo it has 4 tracks, 2 of which are devoted exclusively to freights. So they have absolutely no meets. The Lake Shore road, which is their connection running to Chicago, for a considerable part of the distance has 4 tracks, and for the entire distance it has 2. The Pennsylvania has 4 tracks from New York to Pittsburg, 4 tracks for part of the way from Pittsburg to Chicago, and never less than 2. The New York Central's schedule on their through freights, freights that they turn over ultimately to the Union
6942 Pacific, is 60 hours from New York to Chicago, or, roughly, 15 miles an hour. And that is over a level track, a track of few curves, and a track where a freight train has absolutely no meeting points.

Q. Is that a merchandise freight schedule?

A. I understand it is.

Q. Do you make a distinction between merchandise freight in this connection and dead freight?

A. Well, I don't know what you would call dead freight.

Q. Well, other than merchandise freight. Is there a longer schedule on the New York Central to Chicago for freight other than merchandise freight? Have they a 100-hour schedule there, do you know?

A. I don't know. This is the schedule that I took that corresponds to the 100-hour schedule on the Union Pacific, which is the schedule on which we pull our Pacific Coast freight, and while the average speed including stops from the Missouri River to Ogden on the Union Pacific is only 10 miles an hour as against 15 on the New York Central, it is a vastly more creditable performance and a harder schedule to maintain and requires higher operating efficiency than the 15-mile schedule, because the Union Pacific freight has to be lifted at one point alone over an 8,000-foot mountain ridge, over the Rocky Mountains, besides a number of intermediate summits, and the New York Central freight moves from New York to Chicago practically on a water grade, and with a track for westbound freight and a track for eastbound freight, totally without handicaps from opposing traffic.

Q. Have you any memorandum before you as to the time
6943 resulting in delay of train movement consequential upon the inspection required by the federal laws?

A. I have.

Q. Let us have that, please.

A. We have taken the actual time of inspectors going over trains at the various inspecting points between Council Bluffs and Ogden, and out of the total time of 100 hours that we have for that run, 27 hours and 39 minutes are consumed in inspection. I do not mean to say that all of that is due to federal law, but a little over 6 hours out of the total are due to the extra time taken now as compared with the time it took before the law was so extremely enforced as it is at the present time.

Q. Do I understand you that as between 1901 and the present time the consumption of time is six hours and 6 minutes greater than it was then?

A. That is what I mean.

Q. Have you anything to say with reference to the operation of the 16-hour law?

A. Of course the effect of all these new laws has been to lengthen out the time. There are laws affecting the length of time that you can keep animals in cars. If it is violated, even unintentionally, you have got to prove that you did it unintentionally, otherwise you have got a heavy fine. There is a law prohibiting working train crews over 16 hours. Of course every train crew is a self-constituted check on the road, every member of the crew is quick to report any infractions or supposed infractions of the law to the Interstate Commission inspectors, who are very numerous over the roads; heavy fines are the result of infractions, suits are sometimes instituted even if the carriers are totally blameless, and they are
6944 put to the trouble of delaying trains on account of these laws, to be certain that they do not run up against fines. Formerly a slight defect in a car, that in no way made it unsafe to run was overlooked and the car was taken. At the present time even the slightest defect will prevent it, even though not rendering the appliance unsafe; requires the whole train to be stopped, the car switched out and sent to the repair track. At times a defect will develop in a car that left a terminal in good order—it develops on the road, and to comply with the law the train has to be stopped, the car switched, set out on a side track, and men sent out to repair it. We had an extreme case, where a locomotive left a terminal after proper inspection, with the air pump in perfect condition. The air pump gave out 15 or 20 miles from the terminal to which the locomotive was destined, the train was taken to the terminal, and a suit was promptly instituted because the whole train was not stopped and the locomotive detached and another one sent out from the terminal to take its place.

Q. Have you any figures in your memorandum, that you can give us, showing the average distance a freight car is moved per day for the year ending June, 1909? I mean comparative figures.

A. Yes, I have a memorandum here taken from the monthly reports of the Committee of Relations between Railroads of the American Railway Association, that publishes monthly the car movements of the different roads of the United States. For the year ending June, 1909, the average movement per day per freight
6945 car on all the roads in the United States was 22.1 miles; on the Union Pacific Railroad it was 41 miles, on the Oregon Short Line 31.8 miles; on the Oregon Railroad & Navigation Company 23.9, on the Pacific System of the Southern Pacific 32.7, and on the Sunset-Central lines 22.9.

Q. As between the mileage attributed to the Union Pacific railroad proper 41 miles, and the Sunset-Central mileage of 22.9, will you explain the disparity?

A. You mean the cause for the disparity?

Q. Yes, sir.

A. It is largely a question of the nature of the traffic. The Sunset-Central has a number of important terminals, particularly tidewater terminals, which are the graveyards of freight cars. Custom, that in some cases has been made the law, the regulation of railroad commissions, gives the man who ships freight to tidewater an unusually long free time in a freight car. The Sunset-Central lines at New Orleans and Galveston, Port Arthur and Sabine Pass, have ocean terminals, and that interferes very much with their car movement. The Union Pacific does not reach tidewater, and a great deal of their traffic is delivered to them by connection at the east and west ends and is hauled through. Therefore they show somewhat better daily car movement.

Q. The Union Pacific Railroad is in a large sense an intermediate carrier?

A. Yes.

Q. Do passenger trains in their operation interfere with the promptness of freight train movement and delivery?

A. Vastly more than an equal number of freight trains themselves, because the passenger is a preferred movement and the
6946 freight trains have to give way.

Q. Do you recall or are you able to state the number of daily passenger trains between Council Bluffs and Ogden in 1900 and the number on 1907?

A. In 1900 we had seven daily passenger trains over that line and in 1909 we had twelve.

Q. Since 1901 how many new passenger cars have been purchased or are under construction for the system lines?

Mr. SEVERANCE. What do you mean by the "system lines?"

A. The Southern and Union together. Since 1901 we have 1,178 new passenger cars either purchased or under construction, being about half of the total equipment.

Q. With respect to the standard of maintenance, what is the cost per car for repairs on the system lines as compared with the average cost through the United States generally?

A. The average cost of a passenger car repair for the United States is $750 per annum. On the Southern and Union systems it is $1,000 per annum, and the present cost is about 40 per cent more now than it was in 1901.

Q. Has anything been done on the Southern-Union Pacific lines in respect to steel passenger cars?

A. Yes. Both lines adopted, about two years ago, steel as the standard of construction for passenger equipment, and since that time nothing but steel has been ordered.

Q. I suppose you do not earn any more money from a steel car than from a wood car, do you?

A. No more.

Q. How does the expense compare?

A. They cost about 50 per cent more than the wood.

6947 Mr. SEVERANCE. You don't have to pay for as many people in your steel car, do you?

A. If you stay on the track you don't have to pay for anything, but we stay on the track more than we used to because we have got a better road than we used to have. A lot of this money we put into it, you know, makes it better and safer. In other words, we are giving the public more for the same money today than they used to get.

Q. Can you give us any statement in expressions of percentage with reference to the increase in frequency of service?

A. Frequency of passenger service increased about 30 per cent in the face of a number of new lines of light traffic.

Q. How about the percentage on the Omaha or Council Bluffs-Ogden line 1901 and subsequently?

A. On that line it increased about 45 per cent and the character of the trains was entirely different. In other words, we had more of these high-grade, luxurious trains, with observation cars and electric lights and dining cars and all modern improvements.

Q. Have you any comparative figures upon that subject?

A. In 1901 we owned one observation car; at the present time 45, either owned or under contract for early delivery. In 1901 we had 39 dining cars; at the present time, running or under contract for early delivery, 145. These luxurious trains are giving better service, as has been evidenced by the receipt of commendatory letters. Sometimes, when the trains are not on time, we get the reverse, but the majority are commendatory, and we have every reason to believe that the public is well pleased with the service.

6948 Q. Then, the public has shown some sense of appreciation, Mr. Kruttschnitt?

A. In this case, yes.

Q. Have you any figures and information with respect to the mail trains, taking the years 1900, 1905, and 1909 for illustration?

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A. In 1900 the time made by the mail between Chicago and San Francisco was 69 hours and 45 minutes; in 1905, 59 hours and 43 minutes; in 1909, 65 hours and 38 minutes, but in 1900 the mail reached San Francisco late in the afternoon—too late for that day's delivery. It lay over night and was delivered the next morning. At the present time the mail reaches San Francisco early in the day and is delivered the same day, so that the actual reduction in the time of the mail, counting its delivery as the delivery to the person addressed, is from 12 to 15 hours.

Q. Do I understand you that no change in delivery as between 1905 and 1909 has been made?

A. The change in the time of these trains was practically forced on the carriers by the post-office department.

Q. In what way?

A. By excessive and arbitrary fines whenever the schedule was not made. In other words, to come back to what I said about freight trains, when too fast a schedule is undertaken and you haven't a margin, you don't make it. In the case of the freight trains the penalty was, of course, diversion of freight and dissatisfaction on the part of our patrons. In the case of the mail there was not only dissatisfaction on the part of the public, but excessive fines were put on by the Department, and when we found that the schedule could not be made certainly without paying these high penalties, we
6949 simply lengthened out the time. On two of the mail routes only in one year the fines aggregated $62,330, or about 20 per cent of the entire mail earnings.

Q. Do I understand you that, all these circumstances being regarded, there has been no change in the delivery of the mail, 1905 to 1909?

A. No; on account of the different arriving times there has been really a decrease, counting the delivery of the mail up to the time that it is put in the hands of the person addressed.

Q. While we are upon this subject of passenger traffic, have you a charted showing for 1909, as compared with the earliest available date, bearing upon the question of the safety of passenger service?

A. I have.

Mr. DUNNE. I will offer the chart in evidence.

The same was marked Defendants' Exhibit 106 (Kruttschnitt), and the same faces this page.

WITNESS. The earliest date of which data were available on the Union Pacific system was 1904, and the comparison on Exhibit 106 is made between the years 1904 and 1909, and shows on the Union Pacific a reduction in the number of train accidents per million miles run by locomotives from 20 to about 9.2, on the Oregon Short Line from 20.1 to 14.3, on the Oregon Railroad & Navigation Company from 15.1 to 6.5, on the Pacific System of the Southern Pacific Company from 29.4 to 24.1, on the Sunset-Central lines from 22.7 to 15.3.

Q. To what do you ascribe this improvement in service?

6950 A. To begin at the bottom, the better roadbed and track; next, to what runs on the track—better equipment; next, the greater attention paid by the staffs on all of the lines to operation and maintenance, and to the block signals. Those are the principal causes. That, however, would be included under the efficient management to which I have alluded. And also to the constant aim to move the traffic in a minimum number of units, to reduce meeting points, and to reduce the possibility of either head-end or rear-end collision; because when we speak of meeting points increasing by the square of the number of trains, the possibility of tail-end collisions increases, not quite so fast, but it increases directly as the number of trains increases; in other words, with one train running each way on a given section of track there can be, necessarily, no tail-end collision. If you have two trains in each direction, there can be two tail-end collisions. In other words, the rear train of the two can collide with either of the preceding trains. If there are twenty trains in each direction, any one of 19 can collide with those in front. So with 20 in each direction you will have 38 possible tail-end collisions in addition to the head-end collisions which are proportional to the square of the number of meets. So that the reduction of the number of units moving over the track has a very large influence on the item of accidents from collision.

Q. Have you any illustrative suggestion with reference to the Union Pacific passenger traffic movement indicative of the relation of accidents to time of movement, expressed in terms of percentage?

6951 A. Yes. This question of accident is one that at all times is receiving the most careful study on the part of general managers, general superintendents and all officers who are charged with the movement of traffic or whose management would be responsible for accidents; and a special study made by the general superintendent and general management of the Union Pacific proper for the year 1906 showed that they had 14 accidents to passenger trains, 10 of which (or 71 per cent) occurred to the limited trains, the very high speed trains. There were 10 of them. There were 62 other passenger trains on the slower schedules and they had only 4 accidents.

Q. Taking this same question of speed as affecting freight trains, is there any bearing upon the question of the physical construction of the freight locomotive and the freight car?

A. Yes, the freight car, to begin with, circulates freely. The passenger cars, in a train, as a rule, belong to the road running the train; they are maintained at a very much higher standard and are built for higher speed than the freight cars. The freight trains, as is evidenced by an examination, are made up of cars from roads all over the country, and despite the inspection that you can give at junction points, you are liable to get cars with defects in them, that will be brought out by running them at high speed. The passenger trains are equipped with steel wheels, the freight cars with cast-

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iron wheels. The freight locomotives, as a rule, are not built for as high speed, they have smaller driving wheels; and, again, regardless of the size of the driving wheel and the policy that I pointed out before, any great increase in speed affects the hauling capacity
6952 of the locomotive so rapidly that at present rates you could not possibly afford to run freight trains at any very high speed.

Q. How do you regard the present freight speeds on the Union Pacific and Southern Pacific systems, regard being had to safety of operation? How do you regard that with respect to the quality of the service in the matter of speed?

A. I think—and I base my opinion on the opinions of my associates in the operation of these roads—that we have about struck a happy medium. We seem to please our patrons quite well. Sometimes we run against a fellow who is disgruntled, and I have no doubt justly so, but I mean the general run of people are satisfied with our service, and when we have done that, when we are serving the public satisfactorily and at the same time serving the owners of the property satisfactorily, and obeying the law, we think we are doing fairly well.

Q. That is what you would call a happy medium?

A. That is what I meant when I said "a happy medium."

Q. By the way, yesterday, in recurring to the items of expense, I do not think I mentioned the subject of taxes. Have you any statement as to the taxes per mile of road on the Union Pacific and the Southern Pacific as between the years 1901 and 1909?

A. I have. It is a matter of ever present anxiety and interest to us. In 1901 the taxes per mile of road on the Union Pacific were $225, in 1909 $424—an increase of 89 per cent. On the Southern Pacific, in 1901, $206 per mile, in 1909 $393 per mile—an increase of 91 per cent. Or if we put those figures in dollars, the Union
6953 Pacific system paid last year $2,570,000 in taxes.

Q. By the way, can you compare that with some other large items of operating expense, for illustration?

A. Yes. It paid to its station employees $2,257,000, and to all of its train men $2,057,000; to all of its locomotive engineers $2,255,000; for renewing all the rails and ties $2,009,000.

Q. Since the year 1901, in your judgment, has the credit of the Southern Pacific Company, its physical development, its economies and improvement of service,—have those things increased or decreased since 1901?

A. They have increased in the most marked way. These numerous charts that I have given in regard to the improvements of the road show what they have been since 1901; they show its increased capacity to move traffic, and the increased safety of operation.

Q. You have called attention to the immense expenditures made for the improvement of the Southern Pacific properties since 1901. You did not have much money before that time, did you?

A. No, we did not; we were poor.

Q. By the way, have you a revenue chart, comparative of the Union Pacific with the Great Northern and Northern Pacific, and also comparative of the Southern Pacific with the Atchison, also with roads generally—a chart in respect to the development of revenue?

A. I have.

The chart produced was marked Defendants' Exhibit 107 (Kruttschnitt), and offered in evidence by Mr. Dunne.

Defendants' Exhibit 107 faces page 4135.

Q. I will ask you to explain that chart.

A. Defendants' Exhibit 107 shows in graphic form the
6954 growth of revenue per mile of Southern and Union Pacific systems and of a number of other eastern and western roads. Between the fiscal years ending June 30, 1901 and 1909, the Union Pacific gross earnings per mile of railroad operated increased from $7,525 to $12,761.

Q. What is the authority for this chart?

A. The annual reports of the companies.

Q. Proceed.

A. The Northern Pacific increased from $6,384 to $12,071; the Great Northern from $5,450 to $7,900; Southern Pacific from $8,453 to $11,515; Atchison, Topeka & Santa Fe from $6,977 to $9,624.

Q. How about the other western roads?

A. The Denver & Rio Grande from $7,021 to $8,238; the Chicago & Northwestern from $7,826 to $8,642; the Chicago, Milwaukee & St. Paul from $6,506 to $7,974; Chicago, Rock Island & Pacific from $6,912 to $7,623; the Chicago, Burlington & Quincy from $6,404 to $8,556; the St. Louis & San Francisco from $6,032 to $7,274.

Q. As to the eastern roads?

A. The Illinois Central increased from $8,754 to $11,804; the Wabash from $7,438 to $10,287; the Baltimore & Ohio from $14,649 to $17,745; the Lehigh Valley from $19,302 to $22,922; the Lake Shore & Michigan Southern, for the year 1900 compared with 1909, from $20,746 to $27,492; the Michigan Central, for the years 1900 to 1908, from $10,232 to $14,272; the New York Central & Hudson River Railroad, between 1900 and 1908, from $19,368 to $23,500; the Pennsylvania Railroad, between 1900 and 1908, from
6955 $27,602 to $33,878; the Southern Railway, between 1901 and 1909, from $5,230 to $7,278.

Q. Calling your attention to the use of the year 1900 in this recapitulation in some instances, is that expressive of the calendar year?

A. Those roads use the calendar year, and 1908 was the last of their reports that we had.

Q. I will ask you just one further brief question before adjournment. With respect to the Union Pacific and the Southern Pacific, has the addition of new mileage upon the one and the other been reflected to any extent in these statements of revenue?

A. Yes. Within the period named the Southern Pacific has added a thousand miles of new mileage and the Union Pacific five hundred.

Q. What would be the character of the reflection from those factors in the share of revenue?

A. It reduced the earnings per mile.

(A recess was here taken until 2 o'clock P. M., at which time the witness was called, and his direct examination resumed by Mr. Dunne.)

Q. Has there been an improvement since 1901 in the service on the Sunset Route?

A. There has. In the passenger service the character of the trains has been improved, observation cars put on, and in general the standard of service has been raised. In freight train service, the regularity of the service has been improved. The time through from New York to San Francisco is practically the same today as it was then. There had been a shortening of service on that line, as
6956 on others, up to October 1907, when I think we added a day to the through time for the same reason that we added to the schedules on the northern lines, that is to say, to permit us to more efficiently load our trains and locomotives.

Q. Has the freight train service been improved by transferring freight at Galveston?

A. Yes. About 1900 or 1901 the terminus of the New York line, that served California, was changed from New Orleans to Galveston. At New Orleans (Algiers is really where the terminals were) our room was limited; there was more or less delay with the fogs, and in high water there was the rapid current of the Mississippi River, navigating 110 or 120 miles from the jetties up to New Orleans, and the line between New Orleans and Lafayette, Louisiana, which takes in the sugar district, has such very heavy traffic on it at the time the sugar crop is being harvested that there was considerable difficulty in getting the freight trains through; there was delay and congestion, and we were confronted either with spending a great deal of money at Galveston to make a new terminal or to double-track the line from Houston to New Orleans. It was cheaper, and we considered a more satisfactory solution of the difficulty, to transfer the terminal to Galveston. We got ample room there. The range of the tides is much less there than the range between high and low water in the Mississippi River. That was a very embarrassing factor at Algiers. The range there is about 21 or 22 feet between low water and high water. At Galveston it is only 7. Having very much more room and less of this variation in the height of the discharging port of the vessel, we could make the transfer quicker
6957 and better, and it was a decided improvement in the through service, by transferring the terminus to Galveston.

Q. Has the time to El Paso from New York been affected by the improvement in ship time?

A. As I say, we had reduced the time a little bit up to 1907, but we took more time then to load the trains; so that the through time now to Pacific coast points is about the same as it was in 1901. The

ships themselves, however, are faster than the old ships; the ships we have had since 1901 are faster.

Q. I think you said the time was less on the Sunset as compared with the Omaha route on account of the train density?

A. No, the through time on the Sunset Route is a little more than on the Omaha route. The mileage is very much greater.

Q. Yes, but barring that consideration.

A. I said the speed was a little bit greater.

Q. Yes, that is what I had in mind. Now about what time does the freight actually make? Have you some figures in reference to cargoes?

A. I have some cargoes checked up. In 1900 the time from New York to San Francisco averaged 15 days and 7 hours; in 1909 a check of the cargoes of 34 steamers, covering 1200 or 1390 cars, was 15 days and 5 hours—2 hours less, or practically the same.

Q. Have you a memorandum of the ship distance and the rail distance, the number of miles per day?

A. Yes. The Sunset Route, as it is known, being the steamship line New York to Galveston, thence by rail to San Francisco, is ship distance 2233 statute miles, rail miles 2186—total 4419. The average speed per day made over that line is 295 miles as against a through distance to California all rail by Union Pacific, Southern Pacific and Lake Shore of 3,258 miles, average daily speed of 251 miles, and by the Atchison and Lake Shore 3,558 miles, an average daily speed of 264.

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Q. Have you any figures as to the mileage distance Omaha to San Francisco, the number of miles per day?

A. The distance from Omaha to San Francisco is 1786 miles. 168 carloads of freight that moved in May, June and July of 1909 averaged 9 days and 3 hours. This is about 200 miles per day.

Mr. SEVERANCE. That is from Omaha to San Francisco?

WITNESS. Yes.

Mr. SEVERANCE. Was that the total movement during those three months?

WITNESS. No, that was a check made of that number of cars to determine how fast they moved. That would be 168 cars of San Francisco freight.

Mr. SEVERANCE. Picked out of three months?

WITNESS. We took three months, yes, as a test. There were a great many more cars than that moved to California but not to San Francisco.

Mr. SEVERANCE. That is what I asked—if that was the total movement. Was that the total movement from Omaha to San Francisco during those three months?

WITNESS. During those three months.

Mr. SEVERANCE. That was the total number of cars—168?

WITNESS. So I understand.

Q. At all events, 168 cars checked for May, June and July, 1909, averaged 9 days and 3 hours?

A. Yes.

6959 Q. Now, you say that would be 200 miles per day. Have you reduced that to the number of miles per hour?

A. Yes. It would be 8¼ miles per hour, excluding all delays.

Q. Now, the schedule New York to San Francisco. I think you gave that, didn't you?

A. Yes. The schedule from New York to San Francisco is about 13 days, on a distance of 3,258 miles, or 250 miles a day.

Q. How does that compare with the Santa Fe schedule?

A. Theirs is the same—13 days.

Q. Now, you have spoken of the improvement in conditions ascribable to the Galveston terminals. I do not think you gave the cost of those terminals. You may have given it yesterday. If you have it before you, will you state it?

A. The cost of those terminals was $2,118,000.

Q. Have you the blue print of those terminals?

A. Yes, I have a blue print here, on the same scale, of the Algiers terminals that were abandoned and the Galveston terminals that were substituted for them.

Mr. DUNNE. I will have the Algiers terminal blue print marked Defendants' Exhibit 108.

Mr. SEVERANCE. May we make the same stipulation about these blue prints that we did about the photographs—that they need not be incorporated in the printed record, but that they may be produced at the argument and referred to?

Mr. DUNNE. Certainly. And I offer Defendants' Exhibit 108 in evidence. I will also offer in evidence, as Defendants' Exhibit 109, the Galveston blue print, and the same stipulation may apply.

Q. These blue prints are on a scale, I understand, of 100 feet

6960 to the inch?

A. Yes; both of them are on the same scale—100 feet to the inch.

Q. Have you some memoranda as to the comparative capacity of those terminals?

A. Yes. The Algiers docks had a frontage of 1,755 feet, accommodating four large steamers. 71 freight cars could be placed for unloading at the steamers. The capacity of the yards serving the docks was 281 freight cars. At Galveston we have 6,235 feet of dock front; 14 steamers can be accommodated; 547 cars can be placed opposite these steamer-berths for unloading, and the yards serving the docks have a capacity of 1,225 freight cars. I have here separate photographs of these docks which I did not have yesterday when I offered the other photographs. These were in the mails and I had not received them yesterday.

Mr. DUNNE. These photographs are in book form, and we will have the book marked as one exhibit—as Defendants' Exhibit 110, and I offer them in evidence, and the same stipulation may apply as to exhibits 108 and 109.

Q. As between 1900 and 1901 and 1909 have you any expressions of the gross tonnage of the steamers of the Sun-set Route?

A. Yes. In 1900, the tonnage—did you ask for the additions to the fleet?

Q. No, the tonnage.

A. In 1900 the tonnage of the fleet was 43,478, in 1901 56,554, in 1909, 87,568—an increase in the latter year over the first of 55 per cent. By tonnage, I mean the tonnage of the vessels in the fleet.

Q. You spoke of additions to the fleet. What have those additions been?

6961 A. In 1901 we added 4 steamers to the fleet, aggregating 18,448 tons, at a cost of $2,226,000. In 1902 we built 2 steamers, aggregating 9,664 tons, costing $1,092,000; in 1906–7 we added three steamers, aggregating 20,196 tons, costing $3,113,000. We have under contract at the present time, for delivery in the latter half of this year, 4 large freight steamers, aggregating 26,000 tons, to cost $2,350,000. That is to say, from 1901 up to and including the vessels for delivery within a few months, have been added or will be added 74,308 tons, at a cost of $8,782,000. That will increase the total tonnage of the coast fleet from 87,568 at the present time to 113,568.

Q. Has there been any improvement in the speed of the boats?

A. There has. The vessels added in 1901 were 15-knot ships; the New York steamers in the fleet before that were 12½ and 13-knot ships; the vessels added in 1906 and 1907 were 16-knot ships, and the vessels under contract at the present time are 16-knot ships. Or, expressed in another way, the older vessels of the fleet took an average of about 160 hours between New York and Galveston, the next lot of vessels 136 hours, and the last 3 completed, as well as the 4 now under contract, will take about 119 to 120 hours.

Q. Referring again to the Sunset service, what has been the situation in respect to tug and lighterage service from and after 1901?

A. Prior to that time the lighterage service in the port of New York was conducted by outside concerns under contract. Of course the ability of the company to control tonnage is largely dependent on the efficiency of this terminal service. The lighterage serv-
6962 ice with the steamship is a good deal like the switching service at a terminal with a railroad. And since that time we have added 5 tugs and 42 lighters to the coast plant, which have very greatly increased its efficiency and its ability to control the traffic.

Q. Have you a memorandum in respect to the tonnage of the tugs, barges, and lighters?

A. In 1901 we owned 1 tug, 150 tons burden; in 1909 we owned 5 tugs, 780 tons; 3 barges, 1,078 tons, and 39 lighters, 10,259 tons.

Q. Have you built any passenger ships, ships doing passenger service, since 1901?

A. Yes, we built the "Momus," the "Antilles," and the "Creole." These are very large vessels, 16 knots, and with the very finest passenger accommodations.

Q. Do you recall the year or years when they were built?

A. Yes, those were the three vessels that were built in 1906–7.

Q. Have you a profile chart of the rail routes from Portland via Huntington and via Roseville to Ogden and Granger?

A. I have.

Mr. DUNNE. I will offer this chart in evidence as Defendants' Exhibit 111.

The SPECIAL EXAMINER. Do you wish to have this printed, or will it go in under the stipulation?

Mr. DUNNE. I believe this might go in under the stipulation.

Mr. SEVERANCE. I should say so.

Q. Will you please explain that chart?

A. Defendants' Exhibit 111, in its upper half, shows profile of the line from Portland to Granger via Ashland, Oregon, Marysville and Roseville, California, Truckee, Ogden, to Granger. It gives the
6963 mileage and the elevations to be overcome by a train carrying freight between the two terminals. The lower profile shows the mileage and elevations to be overcome in moving freight from Portland to Granger via Huntington, Oregon; McCammon, Idaho; Montpelier, and Granger; and it also shows the profile from McCammon to Ogden. In the table marked "Physical Characteristics" are shown for each of these routes the total rise and fall in feet, the total degrees of curvature, the actual distance in miles, with the equated level distance in miles to be overcome between the various termini, and the equated level length in miles being the mileage additional to the actual distance to offset the work done in lifting the loads over the grades and in forcing them around the curves, the equation being made according to well-known engineering formula. In other words, it is impossible to compare two routes varying in grades and curvature unless, so to speak, they are reduced to a common denominator, which is the resistance of pushing the load over a straight and level track. In overcoming a foot of grade the same work is done as in hauling the load over 344 feet of straight and level track, and in pushing the load through a curve of a little more than a mile in radius, or what is known as a one degree curve, is equivalent to hauling the load on a level over 7.2 feet of track. That enables the two routes to be compared on the same basis.

Q. I will ask you to make a little more in detail the comparisons on this profile chart.

A. The route from Portland to Granger via Roseville and Ogden has a total rise and fall of 40,364 feet.

6964 Q. That is east and west, is it not?

A. Yes—rise and fall; total degrees of curvature 86,019, actual distance in miles 1487.3, total equated distance in miles 6,164. The route from Portland to Granger via Huntington and McCammon has a total rise and fall of 21,040 feet, 35,705 degrees of curvature, actual mileage of 945.3, and equated mileage of 3,493.

Q. Will you state the figures expressing the excess.

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A. The first line described has an excess of 19,324 feet of rise and fall, 50,313 degrees of curvature, 542 miles of actual distance, and 2671 miles of equated distance against it. On the route from Portland to Ogden via the Southern Pacific's lines, the total rise and fall is 36,020 feet, total degrees of curvature 80,547, actual distance 1341.2, equated distance 5552 miles. From Portland to Ogden via Huntington and McCammon, total rise and fall 19,376 feet, 32,334 degrees of curvature, 865.2 miles actual distance, 3,203 miles equated distance. Line No. 3, from Portland to Ogden, via the Southern Pacific Company's lines, has an excess of rise and fall of 16,644 feet, 48,213 degrees of curvature, 476 miles actual, and 2349 miles equated.

Q. That will be all.

A. There is one thing that it is necessary to explain this, that I did not touch on here. What I have given so far has been the relative resistance, the physical resistance, to traffic going over these two routes. The grades on the Southern Pacific line are very much heavier—the rate of grade—than on the other, and the expenses of moving the freight are not given on the diagram, but for an understanding of it should perhaps be added. The cost of moving a ton of freight from Portland to Ogden via the O. R. & N. and
6965 O. S. L. lines, or via Huntington, would be $2.69 a ton, Portland to Ogden via the Southern Pacific lines $5.53, from Portland to Granger via Huntington and Montpelier $2.75 a ton, and from Portland to Granger via the Southern Pacific Company and Ogden $5.94 a ton.

Q. Am I correct in assuming that the grades shown upon the profile are from 5/10 of 1 per cent to 2 per cent, from 2 per cent to 3 per cent, and then 3 per cent and over?

A. They are, and the lengths of those grades are shown in the tabulation.

Cross-examination by Mr. KELLOGG.

Q. Mr. Kruttschnitt, what was the object of making those profiles?

A. These?

Q. Yes.

A. To show the relative obstructions in moving freight by those two routes and the relative costs.

Q. To show that the route from Portland to Ogden or Granger as compared with the Union Pacific's route by Huntington and Pocatello, is not a good competitive line, I suppose?

A. No; as I said at first—I answered that fully—it was to show the relative obstructions to moving traffic and the relative costs for the two routes.

Q. But you know, don't you, that all over this country longer lines, with more difficult grades, compete with shorter, water-level lines, on the same rates?

A. I suppose they might up to a certain point; but there may come a point where the competition—with all respect to that term,

6966 which has been the subject of a good deal of misunderstanding, apparently—would be impossible.

Q. You know not only they might, but they actually do, don't you?

A. I don't know; unless the instances were given I would not like to say the extent to which I know that.

Q. The Burlington route and the Denver & Rio Grande together is over 300 miles longer than the Union Pacific from the Missouri River to Salt Lake and Ogden, is it not?

A. You say so. I don't doubt it is so, but I don't know.

Q. Well, it appears here in evidence. Now, the Union Pacific from Omaha to Denver, or to Julesburg Junction (or whatever it is), has practically a water level, hasn't it? It follows the Platte River.

A. The Union Pacific?

Q. Yes.

A. Yes.

Q. The Burlington has also, has it not?

A. I don't know; I am not familiar with it.

Q. You have been over it, haven't you?

A. No.

Q. You know it goes over a rolling country, don't you?

A. I don't know. I have never been over it.

Q. What is the grade that you pass over going from Julesburg to Ogden and Salt Lake—how many feet?

A. On the Union Pacific?

Q. Yes.

A. I think it is practically 90 feet.

Q. 90 feet to the mile. And the height above the level of the sea is about how much?

A. Roughly, 8,000 feet.

Q. What is the grade of the Denver & Rio Grande and the Rio Grande Western going over the Rocky Mountains?

A. I don't know.

Q. You know it is a great deal greater than the Union
6967 Pacific, don't you?

A. I know it is greater.

Q. They rise to the height of between 11 and 12 thousand feet, don't they, above the sea?

A. I don't think it is that much; but if you say so I have no doubt it is so.

Q. It is over 10,000 feet at Leadville, isn't it?

A. Leadville is about 10,000, I think.

Q. 2,000 feet higher than your line?

A. Well, if it be 10,000.

Q. Very well. Now, you know that route competes with your route in the movement of traffic in large quantities, doesn't it?

A. I am very unfamiliar with the traffic route.

Q. You know the railroad is there, don't you?

A. Yes.

Q. And it lives and earns a dividend?
A. I don't know whether it lives or not.
Q. Well, it is in operation every day, isn't it?
A. It does operate; yes.
Q. And has been operating for 20 years, hasn't it?
A. After a fashion it operates; yes.
Q. And it has competed with the Union Pacific road, hasn't it?
A. No; I don't know that.
Q. You don't know it?
A. I am not a competent witness on the competition in traffic. I don't know anything about that. I have got enough to attend to without it.
Q. You have been over the Pennsylvania road, haven't you?
A. Yes.
Q. Between New York and Chicago?
A. Yes.
Q. I think you testified that the New York Central road was practically a water-level road from New York to Chicago?
6968 A. So I understand—always have.
Q. And the Pennsylvania goes over the Allegheny Mountains, doesn't it?
A. Yes.
Q. It has to double all its trains practically from Altoona to the top of the mountain?
A. What do you mean by "doubling?"
Q. Putting on extra engines.
A. I think they do.
Q. And it is a very steep grade, isn't it?
A. It is a grade. How steep it is I don't know.
Q. The Pennsylvania successfully competes with the New York Central in time and in rates and in everything else, doesn't it?
A. I think so.
Q. It runs an 18-hour train and the New York Central runs an 18-hour train to Chicago; isn't that true?
A. Yes.
Q. And isn't that a cut of about 6 hours in the last ten years?
A. I think there are other trains of about 23 hours; that will be 5 hours.
Q. Well, 5 hours, we will say. I guess you are right. Now, Mr. Kruttschnitt, the year 1893 was the year of the great panic, wasn't it?
A. I think so.
Q. And between that year and about 1896 and 1897 were years of great depression in railroad operations in this country?
A. I think there was a gradual recovery from 1893 up.
Q. Yes, but I am taking the whole period together. That was a period of great railroad depression? Isn't that true?
A. The beginning of it, yes; but my recollection is that towards the end of that period there was considerable recovery.

Q. It commenced to recover in 1897, immediately after the
6969 election of 1896—the fall of 1896, didn't it?

A. 1896 to date is 14 years ago. I can't say about that.

Q. You recollect very well, don't you, that a great many of the leading systems of railroads in the West went into the hands of receivers in 1893?

A. At the time of that panic; yes.

Q. The Union Pacific and its allied lines, the Santa Fe, the Northern Pacific, and a great many other lines in the East and South went into the hands of receivers, didn't they?

A. I think so.

Q. So that was, at least from 1893 to 1896, years of great depression? Isn't that true?

A. I have said already that 1893, according to my recollection, was a year of great depression, but there was recovery toward the end of that period.

Q. But the great improvement in business has been during the last ten years, hasn't it?

A. Yes; up to 1907, when we had the panic.

Q. Well, during the ten years previous to that, then?

A. Yes; roughly.

Q. Did you ever know in this country such an expansion of business, railroad and all other business, as during those ten years?

A. From 1897 to 1907?

Q. Yes.

A. No; it was a period of unusual expansion.

Q. Immediately after the panic of 1897, and about the beginning or say along in 1900, the railroads in this country, generally speaking, commenced great development in the improvement of their properties, did they not?

A. From 1897 on?

Q. Well; say from 1900 on.

6970 A. Yes; those who had the money. I said in my testimony that the Southern Pacific did not begin until some time later.

Q. I am speaking now generally of the leading railway systems in this country.

A. We think the Southern Pacific is one of the leading railways.

Q. Of course there may be exceptions. You commenced what year?

A. The Southern Pacific?

Q. Yes.

A. About 1901.

Q. Well, say along between 1900 and 1902 and 1903.

A. With that as a beginning and up to 1907 it is quite true that the roads did spend a great deal of money.

Q. All over this country? That is true, isn't it?

A. They did.

Q. In other words, they spend enormous sums of money in improving their roads, did they not?

A. As a rule, yes.

Q. Yes, sir, that is what I am speaking of. In cutting down grades, in improving their equipment, and in all of the improvements that have been made in the railroads. Did they not?

A. I would not want to make the statement as general as that, about cutting down grades, because there are a great many large systems that did nothing that way.

Q. Well, they didn't have to; isn't that true?

A. Perhaps not. I have only in mind what you spoke of when you asked me if it was not over a rolling country, and I said I didn't know that they had done anything in the way of reducing grades. If asked what road that was, I would say that was the Burlington.

Q. Now, take the Pennsylvania. The Pennsylvania spend an enormous sum of money in reducing grades over the mountains,
6971 don't they?

A. The Pennsylvania, as I understand—I have never been over that part of their line, but from common railroad gossip I understand that they have graded a new line over the Alleghenies, but I have never seen it.

Q. The Pennsylvania have spent a great deal of money in all of the same class of development that you have on your lines, haven't they?

A. I think they have.

Q. A great deal more than you have spent, haven't they?

A. I don't know.

Q. Do you know that out of capital expenditures alone the Pennsylvania since 1897 has spent over 400 million dollars, not including its proprietary or outside lines?

A. No. It is interesting information—I am glad to know it.

Q. Well, you know they have spent a great deal, don't you?

A. I have understood they were spending 150 millions right here in New York.

Q. On a terminal?

A. It is gossip; I don't know how true it is.

Q. Isn't it a fact that the capital expenditures of the Pennsylvania Railroad system, not including the Big Four and outside systems, have been over 400 millions in the last ten years?

A. No, I just told you I don't know. I have no doubt it is true if you say so. I don't doubt it, but I don't know it.

Q. Hasn't the Baltimore & Ohio spent some 160 millions?

A. I don't know it.

Q. You know the lines out in your country, don't you,—the
6972 Santa Fe? The Santa Fe has spent a large sum, hasn't it?

A. I understand the Santa Fe has spent money freely on its property; it is in good shape, but I have not been over it for, I suppose, eight or ten years. I don't know what they have done.

Q. Do you know that the capital expenditures on the Santa Fe system alone have exceeded $125,000,000?

A. No. But that seems small as compared with what we have spent. I have no doubt it is true. As I say, it is interesting.

Q. But your mileage is more than double the Santa Fe's, isn't it?

A. I think not.

Q. The Union Pacific, Southern Pacific and their allied lines.

A. The Southern Pacific alone has spent over 250 millions, and its mileage is about the same as the Santa Fe.

Q. Let us see about that.

A. My recollection is that the Santa Fe mileage is between 9 and 10 thousand and the Southern Pacific mileage is between 9 and 10 thousand—93 or 94 or 95 hundred miles, somewhere thereabouts.

Q. Now, you show expenditures for betterments, additions, equipment and improvements on the Southern Pacific system exclusive of new lines and terminal properties of (I will give the round figures) 127 millions—Exhibit 73?

A. Yes.

Q. Other than the construction of new lines and terminal properties, you show expenditures for betterments and improvements on the Southern Pacific, in round figures of 127 millions?

A. That is true.

Q. Now, please tell me what the new lines and terminal properties of 114 millions are?

A. That I can't answer offhand.

6973 Q. You have purchased and built a good many lines of railroad in that time, haven't you?

A. Yes. I think I said a thousand miles.

Q. Does that include the lines in Mexico?

A. I don't know.

Q. It doesn't, does it?

A. I can't tell you offhand what lines the 114 millions cover, but it can be very easily ascertained and I will furnish it.

Q. You don't know what lines nor the length of lines that that 114 million includes?

A. I can't answer offhand. I can by referring to the statement from which this is made up, and give it to you exactly.

Q. Have you got the statement with you?

A. No.

Q. Will you produce the statement?

A. I will ask Mr. Worthington to make a note of that. We will produce the statement.

Q. Outside of those new lines your company spent 127 millions?

A. Yes.

Q. And the Union Pacific 121 millions?

A. If you want to make them comparable you ought to leave out new lines on the Union Pacific.

Q. I am going to do that.

A. I only call your attention to the fact that the two figures are not comparable.

Q. The Union Pacific, including new construction, was 120 millions?

6973½ A. 121 millions.

Q. Of that 57 millions was new construction?

A. Yes.

Q. Or nearly half. Now, what is included in the 57 millions of new construction?

A. That I shall have to answer as I did the other. We can produce the items that make that up, but I can't answer it offhand.

Q. The San Pedro line is one, isn't it?

A. I do not know.

Q. Well, produce that. What is the total mileage of the Union Pacific and allied lines? I do not mean including the Southern, but I mean its other lines.

A. In round numbers 61 or 62 hundred—somewhere thereabouts.

Q. And its total expenditures for improvements was a little over 60 millions—65 millions, say, or 64 millions?

A. Yes.

Q. If the Santa Fe spent 128 millions, they spent about as much as the Union Pacific, didn't they?

A. I would like to know what the Santa Fe expenditure covers. Maybe it covers a lot of new lines. I don't know. In other words, we must be certain of getting in the same items before we make a comparison. I don't know what the Santa Fe's expenditure covered.

6974 Q. The other transcontinental lines have spent a large amount of money in improving their lines, have they not, the Great Northern and Northern Pacific?

A. The Great Northern and Northern Pacific I understand have both spent a great deal on grade reduction.

Q. Do you know that the Great Northern has spent, in construction and improvement, $115,000,000 or $120,000,000?

A. That is interesting, but I did not know it.

Q. Do you know that the Northern Pacific has spent, up to and including 1907, eighty-eight or eighty-nine millions?

A. I had not known that.

Q. You do know, do you not, that all of the leading railroad systems in this country have, since 1900 and 1902, spent enormous sums of money in all of the classes of improvements that you have spent money for?

A. No, I don't know anything of the kind. On the contrary, as to a good many I know that they have not.

Q. You have been over the railroads some, in this country, haven't you?

A. Some, yes.

Q. Don't you know that the aggregate capital expenditures of the roads in this country are nearly, if not quite, double their total capital or cost of property in 1897?

A. How is that?

Q. That the present capitalization of the stocks and bonds of railroads in this country has doubled in the last ten years.

A. No, I did not know that. With all respect to you, I think you are mistaken.

Q. Well, since 1897?

A. You may be right, but I don't think you are.

6975 Q. Pretty nearly doubled, haven't they?

A. I think not. I am interested in that. I shall look it up and if I am mistaken I shall be very glad to admit it. To be sure that I am answering your question intelligently, I suppose you mean the capitalization per mile, don't you?

Q. No, I said the total capitalization; take the leading railroad systems.

A. I am speaking "per mile." Of course, the mileage of the roads has increased immensely in the past ten years.

Q. Take the leading railroad systems of this country: I will ask you if their capital expenditures for improvements and betterments of their properties—if that alone has not increased over 50 per cent of their original capital.

A. From what you have answered, I guess it is evident we are talking about different things. You are speaking of the total capital invested in railroads. I suppose that has increased enormously in ten years, because there have been a great many improvements such as you have alluded to, and a great deal of new mileage, but when it comes to capitalization per mile, which is what I was thinking of, I doubt whether there has been any great increase. My recollection is quite clear on that—that the capitalization per mile on the roads of this country for the past ten or fifteen years has not increased very much, or in any such proportion as implied in your question.

Q. I show you Defendants' Exhibit 100. You state, in this exhibit, that the mileage of the additional main tracks has increased, between 1901 and 1909, on the main line of the Union Pacific and Central Pacific roads 402 per cent?

6976 A. 402 per cent., yes.

Q. The fact is, you only had 96 miles of double track in 1901?

A. So it seems, yes.

Q. And 482 miles in 1909?

A. Yes.

Q. That percentage doesn't mean anything, does it?

A. It depends on what the English language means.

Q. What did you put that percentage in there for—482 per cent? to make it sound well?

A. No. I cannot conceive of any other way by which you could convey to any one an intelligent idea of what the increase had been, except that way.

Q. If you had one mile in 1901 and six miles in 1909, the increase would be 600 per cent, wouldn't it?

A. No.

Q. 500 per cent, I mean?

A. Yes.

Q. Then that would express it more accurately, wouldn't it?

A. It would express it, I should say, with mathematical accuracy in both cases.

Q. And if you had one mile in 1901 and ten miles in 1909, you would have an increase of 900 per cent, wouldn't you?

A. An increase of 900 per cent; quite right.

Q. If you will look on your exhibit to "miles of track protected by automatic signals"— you had 2 miles, in 1901, of track protected by automatic signals?

A. Yes.

Q. And in 1909 you had 2,165 miles?

A. Yes.

Q. What is the percentage of increase there? About a thousand per cent, isn't it?

A. Roughly, about a thousand per cent, yes.

Q. Why didn't you put that percentage in after that?

A. I called attention in my testimony yesterday, that where you come to the miles of rail 80 pounds or over, the amounts being
6977 less than will reach to the hundred or basing line, you will find a little note, in the second column, headed "Relative," at the top, on the line marked "Miles of rail 80 pounds or over," that we give the per cent of the total—just to avoid such questions as "2,000 per cent increase." I have no doubt we put it in there just for that purpose. That is why I have been so anxious, when you endeavored to get me to admit that the Atchison, Great Northern, and other roads' expenditures were quite as much as ours, that you should let me know exactly what you were quoting; in other words, whether the figures were comparable or not. To understand each other, we must know that we are referring to exactly the same things.

Q. Why didn't you make the percentage of increase in miles of track protected by signals compare with the percentage of increase of double track, so we could see what percentage of increase there was in double track and what percentage of increase of automatic signals? Wasn't it put in there so that your counsel could point to big increases, of four and five hundred per cent—which don't mean anything at all?

A. No doubt you think so. But counsel had absolutely nothing to do with the preparation of this statement. And after all, I want to say this again, and to say it with all the emphasis I can, that I do not at all understand the drift of the questions, or why a percentage, whether it be a thousand, ten thousand, or ten million per cent, does not convey to the mind a mathematically accurate impression of the increase. I don't know of any other way to put it.

Q. You testified that between 1897 and 1908 the increase in the cost of labor on the Union Pacific system had been 20 per
6978 cent and on the Southern Pacific 25 per cent; and all classes of labor 17 per cent; that is substantially correct, is it?

A. I think so.

Q. Why did you select 1897 as the first year for this comparison?

A. I gave that explanation yesterday I think. I think it appears on my statement.

Q. What is the explanation?

A. That this statement had been drawn up for evidence in one of the other numerous cases in which we were all cited to appear to make explanations of operations; and it was continued from that date to this—simply added on to.

Q. What case was that made up for?

A. I think the Salt Lake case.

Q. You say it was continued from 1897 down to the present time?

A. I said we made it for that case, beginning with 1897; and the figures, I think, for 1908, came out after that, and were added to it.

Q. But you have got each year between that, haven't you?

A. From 1897 to 1908?

Q. Yes.

A. I have not each year here.

Q. You have records of it, haven't you?

A. I suppose so.

Q. What was the case that you selected the year 1897 for?

A. I think it was the Salt Lake case.

Q. What was the question involved?

A. I will state the question that was involved in very general terms: Why, with the large business the Union Pacific had done, the net earnings (I think) had not been turned over to the public by a great reduction of rates?

6979 Q. The question was upon the reduction of rates was it not?

A. That was about it.

Q. Somebody claimed some rate was too high?

A. No, I think the question I was called on to testify about was, generally, where the net earnings had come from, how they had accrued, and what benefits the public had gotten through the large capital expenditures on the Union Pacific.

Q. But the question at issue in the case was as to whether some rate was too high or not?

A. I don't know what the question at issue was. There are so many, and we are hauled up so often, that the layman cannot keep track of that.

Q. Well, you don't know, you say?

A. No, I don't know. But you asked me what it was gotten up for, and I am telling you.

Q. What was the object of getting that up—to show the great increase in the cost of labor?

A. I have just told you, and I will try to tell you again. The object of getting it up was to show why rates had not been reduced.

Q. Because labor had increased, and other things?

A. Because every expense had increased; everything that we bought had increased in price; and that which we had to sell remained sta-

tionary. And the public got the benefit of the difference—which I have valued here in money, for the Union Pacific, at about sixty-three or four millions of dollars in eight years. That information I did not have at Salt Lake. I wish I had had it.

Q. Why didn't you select 1900 or 1901—the date that you selected for the other principal comparisons?

A. Because, as I understood it from this case, we began
6980 sinning, according to the theory of this case, in 1901. So having all the statistics worked up, as far as we could work them up, we began in 1901.

Q. Why didn't you take 1900 instead of 1897?

A. I told you that, twice, already; and I will try to tell you again: That this was a statement of comparative prices of labor and commodities, which had already been worked up; and it was considered that it would be interesting information in this suit and show the trend of prices of labor and materials, and it was not worked up *de novo.*

Q. Didn't you know that the prices of labor, material, and everything, were higher in 1900 and 1901 than they were in 1897?

A. Now that I look at the list of prices, that was exactly the reason why, in the Salt Lake case, 1897 was selected. That was exactly the reason. You have hit it on the head. At Salt Lake we were endeavoring to show the handicaps under which the roads had operated, and we took the list of prices in 1897; and that statement which was prepared at that time was brought up and introduced in this case.

Q. In other words, you selected for your comparison for the rise in prices, the lowest year there was—1897, didn't you?

A. For the Salt Lake case.

Q. But you selected that, didn't you?

A. I selected for the Salt Lake case the lowest point——

Q. But you have used it here, haven't you?

A. I have introduced the statement here.

Q. You know, don't you, that 1897 was the period of the lowest prices for the last thirty years?

A. No; I don't know that.

Q. Have you ever examined the Government tables on that subject?

A. No.

6981 Q. Don't you know that 1897, as to labor, materials, and everything else, as they are made up by index numbers in the Government publications, was the year of lowest prices?

A. I do not.

Q. You know it was the lowest as to labor and materials, don't you?

A. I do not. I have stated already, and it is all that I will state in answer to your question, that it was the lowest in the list of prices I have got here, from 1890 until 1907; and for that reason, and that reason exactly, it was selected as the exhibit in the Salt Lake case—

to show to what extent our expenses had increased through rises of prices of wages and material.

Q. Now, you have made up some charts, 66, 67, and 68, showing the increase of labor and material, and comparing it with the rates.

A. There are two statements here—67 and 68, one being a typewritten statement and the other a chart showing the rates and saving to the public through non-raising of rates.

Q. That saving to the public is made up on what theory of the comparison of the rates with the increase in prices of labor and material?

A. I have explained that, but I will explain it again. Defendants' Exhibit 68 shows, in the third line, the relative prices of labor and material for the years from 1901 to 1909, inclusive, 1901 being used as the basing year, or 100. The figures show the increases in percentages of cost of labor and material. Line 5, Union Pacific system, shows the average revenue per ton mile, actual, not relative. Line 6 shows what the revenue per ton mile should have been to have
6982 offset the increased prices paid for material and labor. The difference between the actual rate obtained and the rate that we should have obtained to offset these increased prices, we say, has enured to the benefit of the public.

Q. That does not answer my question at all. If you had listened to my question, I think you would have understood it. What percentage of increase did you apply to the rates?

A. I think my answer is responsive to that. In other words I applied the same percentage of increase to the rate that we should have liked to have gotten; the same percentage in the increase of rate that we had to pay for material and wages.

Q. In other words, if material and wages increased 25 per cent during those years, you think the gross rate received should increase 25 per cent?

A. We should have liked to have it.

Q. Do you think it should, Mr. Kruttschnitt?

A. Perhaps not to the entire 25 per cent. I suppose we would have gotten too prosperous. We could not have hoped for that.

Q. In other words, you don't think, as a railroad man, that because labor and material increase a certain percentage, you should add the same percentage to the gross rate?

A. No. Railroad men have gotten to expect so little, that I admit I didn't expect it.

Q. Then what did you make up the table for?

A. To show that if the railroads had been treated reasonably and had gotten a square deal, and if the public and the authorities had treated them as they do ordinary corporations, that they could have expected, and had every right to expect, that when every ex-
6983 pense that they had incurred had gone up a large percentage, that rates should have gone up; if not in the same percentage, at least should have gone up with the increases in wages and material.

But the railroads being treated entirely different from any other interest, when they were confronted with the panic of 1907, and some suggestions or hopes of raises in rates were indulged in, it was very evident that it was absolutely impossible to get a raise in rates; and when it was suggested that the wages should be cut, every interest in the country, up to the highest, was arrayed against the railroads and they were told they could not cut wages. Therefore they were reduced to working out their own salvation, which they did.

Q. Notwithstanding your unfair treatment, the Union Pacific has, since 1906, paid 10 per cent on its common stock, has it not?

A. I think so. But if you take it back to the beginning——

Q. Wait a minute.

Mr. DUNNE. Now, one moment.

WITNESS. Wait a minute, please. Will you let me answer the question?

Q. Yes.

A. I said that I thought from 1906 you were perhaps right, and I think you are. But when you take the lean years with the fat ones, the dividend does not begin to average that.

Q. What did it pay in 1905?

A. I don't know. But I do know that for many years it paid nothing.

Q. Since it was reorganized?

A. No, not since it was reorganized.

Q. I am talking about the reorganized company.

6984 A. If you want that, I will have it worked up and give it to you. I would rather give it to you accurately.

Q. It has paid 6 per cent and 10 per cent hasn't it?

A. I don't know. I will have it worked out and give it to you. I want to have it accurate.

Q. You stated here a little while ago that in 1907 you were obliged to make economies by consolidating tonnage of trains, or increasing the train tonnage and cutting time, because of the hard times of 1907, didn't you?

A. I didn't say, "cut time"; I said "increase" it.

Q. Well "increase" it, then; because of the hard times of 1907. And yet you increased your dividends in 1906, didn't you, and paid the same in 1907,—10 per cent.

A. I think so. Why shouldn't we?

Q. Since 1899, since the new company was reorganized, have not the net earnings of the Union Pacific increased every year—its surplus increased every year?

A. I think that is correct. I hope it is so.

Q. And its dividends have very largely increased?

A. No; it is paying a very moderate dividend.

Q. Do you call 10 per cent a moderate dividend?

A. Yes, in comparison with 16 to 24 per cent paid by National Banks and——

Q. Well, as compared with other roads?

A. Pardon me a minute.

Mr. DUNNE. Yes, proceed.

WITNESS. As compared with 12 or 13 per cent paid on farm values, and with returns paid on mercantile concerns of such
6985 size that the witnesses were ashamed to name them in Salt Lake, I do not think that 10 per cent, six of which was really on railroad operations and the other four on investments, as I understand it,—I do not think that is out of the way, when you take into account the risks of the early days, and the lean years with the fat years; because, strangely enough, railroads are treated this way; that complaint is made when they have a prosperous year, and, when they have bad years, we have the public, the commissions, the administration, even, against them; they do not want to accord them any relief when they have any hard times, they are simply told "sink or swim, it is none of our business."

Q. What does the Pennsylvania pay,—6 or 7?

A. I don't know.

Q. What does the New York Central pay?

A. I don't know.

Q. What does the Illinois Central pay?

A. I don't know.

Q. What does the Great Northern pay?

A. I don't know.

Q. The Northern Pacific?

A. I don't know.

Q. The Atchison?

A. I don't know.

Q. Not one of them pays over 7, does it?

A. I don't know. I have got a little of Union Pacific, but I haven't got any of the others, and I don't know what they do pay.

Q. Isn't the usual dividend of railroads in this country not to exceed 6 or 7 per cent?

A. I think the Interstate Commerce Commission shows it is only four.

Q. Now let us look at the earnings of the Union Pacific and see how it has been treated since June 30, 1899. Take the Union Pacific gross receipts from operations, and its net earnings, for the year 1899; were they as follows: Gross receipts $34,394,729.07? Is that correct?

A. I don't know.

6986 Mr. SEVERANCE. From transportation. Show him the report.

Q. Were its net earnings for that year $13,942,668.77, as compared with 1899, $38,234,814.10—or substantially three times as much?

A. You mean 1899?

Q. 1899 to 1909—10 years.

A. I have no doubt your figures are correct, but, to be certain that you——

Q. Is that substantially correct?

A. I don't know. If you will give me the annual report, I will answer you. I cannot keep those figures in my head.

Mr. KELLOGG. Give him the annual report.

(Annual report handed to witness.)

Mr. DUNNE. What was the first year you mentioned—1899?

Mr. KELLOGG. 1899.

Mr. DUNNE. Was that the Union Pacific proper?

Mr. KELLOGG. The Union Pacific, 1899.

Mr. DUNNE. The Union Pacific proper?

Q. Well, take 1900. That was a consolidated statement.

A. If you will read the question over, I think I have the page.

The question was read to the witness.

WITNESS. He said "in that year." What date did that mean?

Q. June 30, 1899.

A. The annual report, June 30, 1899, shows net receipts from operation $13,942,000.

Q. Give them in principal sums. The gross was $34,000,000, wasn't it?

A. Gross receipts from operation, of the Union Pacific system, $34,394,000.

Q. Now turn to 1909. [Handing a report to the witness.] Was not the gross operating revenue $78,000,000 (I am giving the principal figures)?

A. Gross operating revenue, $78,750,000.

6987 Q. And its net income, $38,234,000?

A. Its revenue over expenses and taxes, $38,234,000 from the annual report of 1909.

Mr. DUNNE. Is that for the consolidated system, or the Union Pacific?

A. That is the Union Pacific and auxiliary companies.

Q. So that your net earnings were three times as much in 1909 as they were in 1899?

A. Not quite.

Q. Substantially I mean.

A. It lacks about $3,000,000.

Q. Your net earnings were substantially three times as much; $38,000,000 in 1909, and $13,000,000 in 1899.

A. Yes, nearly.

Q. And yet it was during those years that there was this great increase in the cost of labor and materials, wasn't it?

A. Yes.

Q. Is it not a fact that your percentage of operating expenses to gross earnings was less in 1909 than it was in 1899?

A. I will have to look (referring to annual report). It is a fact that the ratio of expenses to operation was less in 1909 than in 1899.

Q. It cost you less in operation to earn a dollar of money in 1909 than it did in 1899; that is correct, isn't it?

A. Yes.

Q. What is the difference in the percentage?

A. In 1899 the ratio was 57.6 per cent, and in 1909, 47.19.

Q. In other words, you had succeeded in reducing your operating expenses, earning a dollar of money, practically 10 per cent; isn't that correct?

A. You have got the figures; I have given them to you.

Q. That is practically correct, isn't it?

A. Yes.

Q. And you did that on very slight increases of rate, didn't you?

A. The rates were practically the same.

6988 Q. There was some increase between 1899 and 1909, wasn't there?

A. No; there was a slight decrease.

Q. Assuming that the rates were the same, you were enabled to earn, on practically the same rates, more money at a less operating cost?

A. Yes.

Q. In spite of the fact that you paid a higher price for labor and a higher price for material?

A. Yes.

Q. Well now, the reason of that——

A. I want to tell you——

Q. Wait a minute, I will ask you the reason.

Mr. DUNNE. You have a right to explain.

Mr. KELLOGG. No, you answer my questions.

Q. The reason of that is, the economies in transportation——

A. Well, that is not my answer.

Q. Isn't that a fact?

A. Let that go down as Mr. Kellogg's answer.

The EXAMINER. It is part of the question.

WITNESS. You are giving me the reason. I don't think it is the reason.

Q. What is the reason?

WITNESS. Read the question please.

Q. I will withdraw that question; I want to ask one other first. That shows, doesn't it, that it is not reasonable to the public to apply the same percentage to increase of the rates as you apply in the payment of wages or material—which is only part of the cost of transportation.

A. I have admitted already that, whilst we should have liked to have gotten the same increase in percentage, we did not expect to; but we did expect that we would get some increase in the rate, to make up for these losses. Now, it is——

6989 Q. Wait a minute. What were your losses?

Mr. DUNNE. Finish your answer Mr. Kruttschnitt.

Mr. KELLOGG. Well, go ahead.

WITNESS. The examination of two years is misleading. The fact is that in 1908 and 1909 all roads in the country were still skimping their expenses to make showings; in other words, there were deferred

expenditures. 1908–9 was an unusually low year for expenditures. The previous year 1907–8, instead of showing a ratio of 47 per cent showed a ratio of 54 per cent—over 10 per cent higher than 1909. In other words, there is a hereafter which we have got to meet. And all of the roads, after this panic of 1907, which was one of the worst for the railroads that they ever knew, had to do everything possible to meet these increases in material and labor, because there was no other way to meet them than by deferring expenditures and by increasing efficiency.

Q. Hasn't there been a substantial decrease in the percentage of operating expenses to gross earnings since 1900?

A. You just asked me for 1899, until 1909. I told you there was.

Q. And you said that 1899 was a year of unusual——

A. I said 1909.

Q. Well, take 1907, then.

A. 1907–8, I haven't got it here. I gave you 1908–9. 1907–8 was very much higher than 1908–9.

Q. 54 per cent, wasn't it?

A. The fiscal year 1908 was 54, and in 1909, 47. In other words, the difference shows the extent to which expenditures had been deferred. It is notorious that every road, under the stress of these hard times, with one strong influence opposing reduction of wages and
6990 other strong influences opposing increases in rates, was, to use a vulgar expression, between the devil and the deep sea; and they had to work out their own salvation. They worked that out by more efficient management, and by deferring to some more propitious day or more prosperous time expenditures that could be deferred.

Q. Now, you gave 57 per cent, 1899, and 47 per cent 1909, did you?

A. Yes.

Q. What was 1907?

A. You have the annual report right there.

Q. You have got it right there, and you read it off. 54, wasn't it?

A. No, that was the year ending 1908.

Q. 1908 was 54?

A. Yes.

Q. That was 3 per cent less than 1899, wasn't it?

A. Yes.

Q. Do you remember what 1907 was?

A. No.

Q. Or 1906?

A. No.

Q. Isn't it a fact that during all the time since 1899 the percentage of operating expenses has not been greater than it was in 1899?

A. I don't know. I could not tell without looking through the annual reports.

Q. Now, you say that the year ending June 30, 1908, was a bad year, do you?

A. Yes.

Q. And 1907 was the top notch year?

A. October 1907 was high water mark for gross earnings.

Q. And you said the year ending June 30, 1908——

A. There were two or three months of heavy gross earnings, with heavy expenses, followed by the eight or nine months of depression after the panic of 1907—October.

Q. So that 1908 was the bad year?

A. 1907–8.

6991 Mr. SEVERANCE. The year ending June 30, 1908, covered by that report.

Q. The year ending June 30, 1908, was the bad year, was it?

A. Yes, I believe that.

Q. The year ending June 30, 1907, was the big year, was it?

A. I don't know about that.

Q. That is what you were talking about a few moments ago, isn't it?

A. No, I was not talking about that.

Q. Will you tell us when the bad year was?

A. You are trying to get me to quote from memory the gross earnings of the Union Pacific Railroad Company. Now, I cannot do it. If you want it, I will have it worked up for you.

Q. You have been testifying about a bad year, when there was a slump and it was necessary to cut expenses. What year was it?

A. That was the celebrated panic of October, 1907.

Q. What year of railroad operation did it cover?

A. The year ending June 30, 1908.

Q. The year preceding, ending June 30, 1907, was the big year, was it?

A. I don't remember that without looking at the report.

Q. It was a good year, wasn't it?

A. I think it was fairly good, yes.

Q. Now, I want to read you the figures of your annual report, and I will show them to you so you can see whether I read them correctly: "Gross earnings of the Union Pacific for the year ending June 30, 1908, $74,422,776.81; for the year ending June 30, 1907, $74,656,152.11." Is that correct?

A. Yes sir. You left out something, though.

Q. What have I left out?

A. Revenues from outside operations.

6992 Q. I will include those, then. Will that be correct?

A. I think so.

Q. What was the decrease on the gross operating revenues between those years?

A. $233,000.

Q. For the entire Union Pacific system?

A. Yes.

Q. Do you call that a big slump? Will you please answer that question.

A. Oh yes, I am going to answer it. No, not a big slump. But when you come down to the revenue over expenses and taxes, there was a slump of $2,182,000. That is what I mean by a big slump.

Q. A slump of two million in the net revenue?

A. Yes. That is the part that the unfortunate people that have their money in the road had to look to and had to try to protect.

Q. In 1908 those unfortunate people had a net revenue over and above all operating expenses of $31,900,000, had they not?

A. I am willing to admit that. You have read it off: I guess it is correct.

Q. From which they paid 10 per cent on their capital stock, paid their interest and fixed charges, and had a large surplus; isn't that true?

A. That is true; with other industries making two or three times as much, alongside of them. And, averaging the years, it was very moderate; was very much less than that.

Q. Could they not have paid their entire dividends, operating expenses and prior fixed charges out of the operating revenue from gross operations of the Union Pacific road, and still have had a big surplus left?

A. I don't know about that. You were just reading for
6993 the entire system; and now you are reading for the Union Pacific Railroad alone.

Q. No, I am talking of the entire system.

A. You said, "railroad".

Q. I am taking the entire system. Now, the fact is, is it not, that with all railroads, during the last ten years (I am speaking now about all the big, principal systems of railway throughout the country, such as the Pennsylvania, the New York Central, the Illinois Central and all the big systems) although there has been an increase of wages and increase in the price of material, owing to the large increased traffic and economies in handling traffic they have been enabled to make more money on less rates than they made before 1900?

A. I cannot say as to all railroads, but it is a general fact that if you are operating with reasonable economy a very large increase of traffic, unless it be so great (as it was in 1907) as to congest you, ought to largely increase your gross earnings and largely increase your net. But in the first three or four months of 1907 it cost considerably more than a dollar to earn a dollar.

Q. Taking the whole year together, there was a big profit wasn't there?

A. Taking the whole year together, it cost 54 cents to earn a dollar.

Q. Now, it appears by the reports that the gross earnings on these lines have substantially doubled since 1899. You gave the Union Pacific as $34,000,000 in 1899, and $78,000,000 in 1909—that is a little more than double.

A. Yes, the gross earnings have a little more than doubled.

Q. The tonnage, the amount of business handled over these roads, has very largely increased, if not doubled, since 1899?

6994 A. Yes, I suspect it has more than doubled.

Q. Is it not a fact that these improvements, such as cutting grades, taking out curves, improved larger engines, larger cars, and other large expenditures were made, in order that you could handle traffic cheaper and make more money at it at the same rates?

A. Certainly.

Q. And that is the principal reason why all of these leading railroads have expended such enormous sums of money?

A. Certainly. But there would be no object in spending the money if they did not get a return on it, you know.

Q. But you have not done it for charitable purposes, have you?

A. No. But as it figures out, whilst we did not have that object in mind, it enabled us to be very, very charitable, when the stress of 1907 came. That terrible panic that struck us, you know, about that time, hurt the public, hurt the railroads. The railroads had reached the high water mark in expenditures in October 1907: such a high water mark that it was costing them a great deal more than a dollar, in the first months of that fiscal year, to earn a dollar; and when they were subjected to the stress, they rendered the public better service than they had before and relieved the public of the necessity of paying more when the railroads had to pay more for material and labor. In other words, in the eight years, all together, they turned back to the public $154,000,000.

Q. Mr. Kruttschnitt, you have certain freight trains that you run faster than others, do you not? The schedule time is faster?

A. I suppose there is not an absolute uniformity as to the speed of all freight trains, no.

Q. You have on your line, or used to have, what you call your fast freight line?

6995 A. I don't know what you mean by that. That is rather an indefinite term.

Q. Do you run all your trains on the same speed schedule, on the same speed?

A. No, sir. I have just told you we did not: did not suppose we did.

Q. What trains do you run faster, what class of trains?

A. I cannot keep those details in mind. You have got all the operating men here: they can tell you that.

Q. But you have been testifying about the time of trains.

A. I testified as to the time of certain specific trains that carried our Pacific coast freight.

Q. Were those what you would call your fast freight trains, or slow freight trains?

A. I don't know that I can specify them. I would not call them fast; I would not call them slow. They are freight trains carrying Pacific coast business.

Q. Well, you gave the time each year, between Omaha and Ogden, did you not?

A. I gave the time, between Omaha and Ogden, of the trains making the Southern Pacific connection, I think, between the years 1901 and 1907.

Q. And then you said there had been no change since. In 1901 or 1900 that train was scheduled at 54 hours, from Council Bluffs to Ogden, was it?

A. About 1900.

Q. Was it 1901 when it was scheduled 54 hours?

A. In 1901, in June, it was 58:25, and in November 60 hours and 30 minutes.

Q. It appears in the record that in 1900 it was 54 hours.

A. I don't know whether that was right or not. A good deal has been said about that 54 hour train. I have no doubt it is correct, but I don't know it.

6996 Q. In 1901 it was 58¼ hours, was it?

A. Yes.

Q. And in 1907 it was 100 hours?

A. Yes.

Q. In 1901 did you run all your trains between Council Bluffs and Ogden scheduled at 58 hours?

A. No, I haven't said so.

Q. What was the schedule?

A. I said we ran this train carrying this Southern Pacific connection, at that speed.

Q. What was the time of the others?

A. I don't know.

Q. Much longer, wasn't it?

A. I don't know.

Q. You don't know anything about it?

A. No.

Q. Now, take the next year, when it was 60 hours. I am leaving off the minutes. Were all your trains scheduled at that rate?

A. No. I said, and I will repeat it (I have said it twice, and perhaps three times), that the figures I gave related to the trains that made the Southern Pacific connection, the trains carrying the freight to the Pacific coast. There were a great many other trains. I do not want to appear unwilling to tell you this, but I am absolutely unable to tell you. It would require a reference to the time tables in effect at that time.

Q. Why did you make up a table, then, to show the effect on the Union Pacific trains, if all of them were reduced from 100 hours to 58 hours?

A. I did not say that all of them were reduced.

Q. But that is the basis upon which your table is made up?

A. What basis?

Q. Reducing all your trains, on all your business between those points, from 100 hours to 58. Isn't that true?

A. I do not understand your question.

6997 Q. Now, you made up a table, did you not, to show the effect (or testified as to one) if the speed of your freight trains were reduced from 100 hours to 54 hours, with the additional number of meeting places it would require, and train service, to handle your business?

A. I think I know what you mean. I did not make up the table. I introduced a chart, to show the variation in the hauling power of locomotives. Is this it? (Indicating Defendants' Exhibit 103.)

Mr. KELLOGG. No that is not it.

WITNESS. Mr. Severance, I think asked a question which I answered from that chart.

Mr. SEVERANCE. It is not that chart, Mr. Kruttschnitt; it is the other one, in which you showed the additional meeting places that would be made necessary.

WITNESS. Isn't this the one—Defendants' Exhibit 103?

Mr. SEVERANCE. Perhaps it was merely an explanation.

WITNESS. I think that is it. You asked a question which I explained.

Q. Then you don't know what the schedules of the other freight trains were?

A. No.

Q. You do know that they were not all the same time?

A. Yes, presumably they are not all the same.

Q. It would not be fair, therefore, to make up a statement showing the reduction of all freight trains from 100 hours to 54 hours, if you never had but one freight train running 54 hours, would it?

A. No, it would not be fair. But I do not recall having made such a statement. Possibly in the testimony I may have said what the effect would be if there had been a large increase in the speed

6998 of trains from the speed involved in a 100 hour schedule up to the speed in a 54. I may have said that, simply to illustrate what the relation of increased speed to meeting points was: I think I may have said that. It was said in a great many different ways. But I did not mean to be understood by that, that all of our trains were run at any such speed, or at uniform speed, because I do not believe it is the case now, and I do not believe it was the case then.

Q. How much have you shortened the line between Council Bluffs and San Francisco over which you run your through passenger trains?

A. On the Southern Pacific, the figures of which I am more familiar with than the Union, my recollection is that the shortening was about 50 miles; on the Union I do not remember. There are gentlemen here who are familiar with the old distances and the new, who can give it to you.

Q. Wasn't it 1,037 miles to Ogden, while now it is 1,002 miles to Ogden?

A. I know it is practically a thousand miles now. What it was before I don't remember. I am informed by Mr. Munroe that the

shortening is 40 miles. I have every reason to believe that is correct.

Q. What was the shortening betwen Ogden and San Francisco?

A. About 50.

Q. That would make it about 90 miles shorter than it was in 1899 or 1900?

A. Yes.

Q. You have improved the grades very much, haven't you?

A. Yes.

Q. Taken out curves?

A. Yes.

Q. Reduced the grades?

A. Yes.

Q. You have a better track, haven't you?

A. Yes, I think so.

6999 Q. And better power than you had in 1899, or 1900?

A. Yes.

Q. Yet your passenger trains are slower, isn't that true?

Q. I don't think so.

Q. Take the Overland Limited, isn't its time 48 minutes longer today, with 90 miles less in distance, and all these improvements, than it was in 1900?

A. I will tell you, as I have told you already, about the freight schedules.

Q. I am talking about the passenger schedules. Will you answer my question as to the passenger schedules?

A. All right; if you won't let me explain, all I can tell is I don't know.

Q. Will you answer my question about passenger schedules?

A. You want me to tell you, Yes or No?

Q. Yes.

A. I tell you I don't know, but I propose to tell you——

Q. Very well, then you don't know?

A. But I am going to——

Q. Wait a moment. I will come to the reasons.

A. Now, either you must let me give the testimony, or you give it, you know.

Q. Wait a moment. I simply asked you if the Overland Limited was not 48 minutes longer in time now than it was in 1900. Is that so or not?

A. I do not know. I cannot keep the time of the trains on eighteen or nineteen thousand miles of road in my head. I have never attempted it, and I sha'n't.

Q. Do you know a train called the "Mail and Express" that was run in 1900?

A. No, I do not.

Q. Isn't it a fact that the time of that train from Omaha to San Francisco is 6 hours and 33 minutes longer than it was in 1900?

A. I do not know what train you are alluding to.

Q. Do you know of a passenger train that left Omaha, in
7000 1900, at 11:35, and arrived at San Francisco at 12:15 the third day?

A. No, I did not know it in 1900, and I could not tell you the leaving and arriving time of any train from Omaha today. I do not know. No mortal man could keep it in his head, other than the man actually running the train.

Q. Do you know of any train running between Council Bluffs and San Francisco that carries passengers, as fast as it was in 1900?

A. I am totally unfamiliar with the schedules in 1900, and very unfamiliar with the actual running times of those now. They are put up to me for approval, when they are made; and once having determined whether they are reasonable or not, or whether we can make them or not, I dismiss them entirely, and they are then in the hands of the men who run the trains.

Q. You have been testifying for a couple of days about improved service, and I thought probably you would know whether you were running your passenger trains faster or slower.

A. I have. I am perfectly competent to testify as to these——

Q. Do you know whether you are running them faster?

A. Pardon me——

Q. All right, go ahead.

A. I am perfectly competent to testify as to the trains that I was questioned on. If you want to know about any particular trains, it will give me great pleasure to have it worked up for you as far as I can. I do not know that we can give it in 1900—that is ten years ago; but if we can, I promise you that I will get it, if you will specify the train.

Mr. SEVERANCE. I will tell you where to get it—if you will go to the Railway Guide, up town.

7001 WITNESS. I am perfectly willing; as to any particular train, if you will specify it, I will put somebody to work and have it worked up.

Q. It is a perfectly simple matter to find out the time of your trains in 1900 and at the present time, isn't it?

A. Yes. If you are perfectly willing to accept the Guide, we will have it worked up; if you will specify what train it is, I will have it worked up, and testify.

Q. Then you don't know whether the Union Pacific trains from Council Bluffs to San Francisco are as fast as they were in 1899 or 1900?

A. I have told you that I am totally unfamiliar with the schedule of 1900.

Q. How about the Sunset trains on the Southern Pacific? You did testify this morning, as I recollect, that they made better time or faster time, didn't you?

A. I said the Sunset Line freight trains carrying the steamer freight made a slightly faster speed per hour than the trains on the Council Bluffs-San Francisco line.

Q. Didn't you testify also, that the passenger trains made faster service?

A. I think not.

Q. Do the passenger trains on the Southern Pacific from New Orleans to San Francisco, make as good time as they did in 1899 and 1900 or 1901?

A. I don't know. I can't remember that.

Q. You are in general charge of operation, aren't you?

A. Yes.

Q. And were on the Southern Pacific road in 1899?

A. Yes.

Q. And years prior to that?

A. Yes.

Q. And have been in general charge of its operation ever since?

A. Yes.

7002 Q. And that includes the passenger schedules?

A. Yes.

Q. And your fast passenger trains are trains of much importance aren't they?

A. Yes.

Q. In the traffic of the Union and Southern Pacific roads?

A. Very.

Q. And you don't know whether they are run as fast now as they were ten years ago or not?

A. No. But all I do know is that when we satisfy the public and give them the service they want, I dismiss the whole matter. It is satisfactory to me when it is to them. And I do know that the service is satisfactory to the public.

Q. You took off the Sunset Limited, didn't you, after 1901?

A. What was the Sunset Limited?

Q. What was it?

A. Do you mean a certain high grade train that ran two or three times a week to the Pacific coast?

Q. I mean a train that Mr. Stubbs testified you spent a great deal of money advertising.

A. Of course, I want to understand that we are referring to exactly the same train. I have defined what I understand to be the Sunset Limited. If that is the train you are referring to, I will try to answer.

Q. Don't you know what is commonly known and what you knew to be the Sunset Limited?

A. I just defined what I understood it to be.

Q. What was it?

A. A train that ran about three times a week, a high grade train, on the Sunset line.

Q. When was it put on?

A. A great many years ago; I don't remember.

Q. How many years ago?

A. And taken off. I don't remember that.

7003 Q. Was it put on prior to 1897?

A. I don't remember.

Q. It was on there in 1900, wasn't it?

A. I don't remember.

Q. It was on there until after 1901, wasn't it?

A. I don't remember, either when it was put on or taken off. But I will——

Q. You speak about a high grade train.

A. I wanted to find out if I had answered your question, and wanted the stenographer to read it. You asked whether I knew what that train was, and I said I did know of that train, if that was the one you alluded to?

Q. Did you give directions to put that train on?

A. Directions for putting on trains are generally given after conference of all the passenger officers and the operating officers. I have no doubt I acquiesced in putting it on.

Q. You speak about a certain high grade finely equipped train making three trips a week. You remember that, do you?

A. Yes.

Q. But you have no recollection whether it was five years ago or ten years ago?

A. No, I really cannot tell you.

Q. Isn't it a fact that the Santa Fe's fast train to the coast, high grade train, only runs three times a week?

A. I think they have two high grade trains, one of which runs daily and the other three times a week.

Q. Used to run three times a week, didn't it?

A. I don't know, years ago; but the last time I had occasion to look into the Santa Fe's schedules, my impression is they had two trains. They have a daily limited train, and they have put on since one three times a week.

Q. Have you taken off this Sunset Limited train that you

7004 were talking about?

A. The three times a week train was taken off a long time ago; just how long I do not remember, but it was taken off.

Q. It was after this consolidation, wasn't it?

A. I don't remember.

Q. Can you find out?

A. I suppose so. There are men here from the Sunset Line. I have no doubt they know without looking that up.

Q. Have you an equally fast train now on the Sunset?

A. No. I am quite certain that the present train is not as fast as the other, because the first train was taken off because it could not earn its axle grease.

Q. It didn't earn its axle grease?

A. Perhaps that is an exaggeration. What I mean is, it was a money losing proposition, and we took it off.

Q. More of an exaggeration than some of your other testimony?

Mr. DUNNE. I do not think that is a proper remark for you to make, and you ought not to make it.

WITNESS. I didn't notice it, Mr. Dunne.

Mr. DUNNE. All right—I am glad you didn't.

Q. How many other passenger trains have you shortened the time of, do you know?

A. No.

An adjournment was then taken until the morning of Monday, February 21, 1910, at 10.30 o'clock.

7005 ROOM 720, CUSTOM HOUSE, NEW YORK CITY,

Monday, February 21, 1910, 10:30 a. m.

The hearing was resumed before the Special Examiner, Hon. Sylvester G. Williams, at the above time and place.

Present: On behalf of the Complainant, Mr. C. A. Severance, Mr. Frank B. Kellogg, Mr. G. E. Husted; on behalf of the Defendants, Mr. Peter F. Dunne and Mr. N. H. Loomis.

JULIUS KRUTTSCHNITT,

recalled.

Cross-examination resumed by Mr. KELLOGG:

Q. Did you find out what the new lines were, constructed in the Southern Pacific, covered by the $114,000,000 expenditure?

A. Yes, I have a list here of the principal ones.

Q. Will you please state them, giving the mileage, if you can; and the cost, if you have it?

A. I cannot give the mileage or the cost. I picked out the principal items. The office closed at twelve on Saturday, and I had only a little over an hour to pick these out.

Q. You can get that for us?

A. Yes, if you want it more in detail; certainly. Southern Pacific Company: Principal new construction built or acquired during eight years ending June 30, 1909. In Louisiana, from Cypremort to Weeks Island; Raceland to Lockport; Lafayette to Port Allen; Arnaudville to Port Barre; Bayou Sale to South Bend; Gueydan to Abbeville; Lacassine Branch; Mallard Junction to Hayes; Eunice to Mamon. In Texas, the Dallas Division of the Texas & New Orleans; Sour Lake Branch; Branch to Port Arthur; Gallatin to Rusk; Stockdale to Cuero; San Antonio & Gulf Railroad; Branch from Van Vleck southerly; Tres Palacios Extension; Wharton Down
7006 Carney Creek; Lampasas Extension; Mexia to Nelleva; Lancaster Tap Railroad; Southern Pacific Terminal Co., elevators, buildings, etc. at Galveston. In California and Oregon: The Fair Oaks Extension; Branch Wyo to Hamilton; Tres Pinos to Lime Rock; Benedict to Smeltzer; Empire to Rossi; San Ramon Branch Extension; Fresno Branch; branch for the irrigation service,

from Araz to Laguna Dam; Henderson to Springfield; Arizona & Colorado Railroad; Arizona Eastern Railroad; Butte County Railroad; California Northeastern Railway; Central California Railway; Coast Line Railway; Gila Valley, Globe & Northern Railway—reconstruction; Inter-California Railway; Lake Charles & Northern Railroad; Lincoln Northern Railway; Oregon Eastern Railway; Oregon Western Railway; Pacific Railway & Navigation Company; Peninsular Railroad; Sacramento Southern Railroad; San Francisco & Napa Bay Railway; Southern Pacific Railroad Company of Mexico; Beaverton & Willsburg Railroad; Oroville & Nelson Railroad; Sunset Western Railroad (½ interest); Fallon Railway in Nevada; Hazen to Churchville; Mojave, California, to Keeler, Nevada; extension of local tracks in Oakland, 14th street to 20th street; spur track via North Point to Beach street to Presidio, Government Reservation in San Francisco; Phoenix & Eastern Railroad; Maricopa & Phoenix Railroad; Corvallis & Eastern Railroad; Northwestern Pacific Railroad (½ interest); San Bernardino & Redlands Railroad; Coos Bay, Roseburg & Eastern Railroad & Navigation Company; Sunset Railroad (½ interest); Los Angeles Pacific Electric; Pacific Electric; Santa Clara Interurban; San Jose, Los Gatos Interurban Railway Co.; Visalia Electric; Los Angeles Railway; Los Angeles Interurban Railway.

7007 Q. Which one of these lines was in Mexico?

A. The Southern Pacific Railroad of Mexico; all of the Mexican lines, with the exception of the Sonora road, which is leased, are now under the corporate name of the Southern Pacific of Mexico.

Q. Do you remember about the length of the lines built in Mexico during this time?

A. I should say substantially all the lines built in Mexico would cover a mileage of somewhere around 750 miles; that would come under that item.

Q. This 750 miles in Mexico—or about that, is that a part of the thousand miles which you mentioned in your testimony on Friday last as having been constructed, and shown in Defendants' Exhibit 73, under the $114,000,000?

A. I do not think so.

Q. You think it is a thousand miles outside of that?

A. Yes. In other words, all of these items which I have read, except that one, constitute the new lines; and I should say that they must amount to at least a thousand miles.

Q. Could your comptroller here, Mr. Mahl, make up a statement showing substantially the mileage and cost of each of those roads, for the record?

A. Yes. I will take pleasure in asking him to do that.

Q. Will you now refer to the $57,245,082.04 of construction and acquisition of new lines of the Union Pacific? Have you a list of those?

A. Yes.

Q. You may read it.

A. Union Pacific proper: From Grants Mine to La Salle, Colorado; from Greeley, Colorado, eastward; from Onaga to Marysville, Kansas; O'Fallons to Northport, Nebraska; Rock Springs to Coal Fields, Wyoming; Sand Creek to St. Vrains, Nebraska; Cedar
7008 Rapids to Spalding, Nebraska; Stromsburg to Central City, Nebraska; Thayer to Horse Thief Canyon, Wyoming; Topeka & Northwestern Railroad; South Omaha & Western Railroad; Pleasant Valley Branch; Salina & Northwestern. On the Oregon Short Line: Mendon to Wellsville; Logan to Wellsville; Malas Valley Railroad; Malheur Valley Railway; Minidoka & Southwestern; St. Anthony Railroad; Salmon River Railroad; Wyoming Western Railroad; Yellowstone Park Railroad; Northwestern Railroad. Oregon Railroad & Navigation Company: Elgin to Joseph, Oregon; St. John's to Troutdale, Oregon; Portland to St. Johns, Oregon; Lewiston to Grande Ronde River, Idaho; Albina to St. John Extension; Dayton Extension; Sierra Nevada Mine Branch; Columbia River & Oregon Central Railroad; Snake River Valley Railroad; Gray's Harbor & Puget Sound Railway; Ilwaco Railroad; Lake Creek & Coeur d'Alene Railroad; Oregon & Washington Railroad; Oregon, Washington & Idaho Railroad; Umatilla Central Railroad; Clearwater Valley Railroad; Columbia Valley Railroad; Columbia Southern Railway.

Q. I asked you the other day if the Union Pacific's interest in the San Pedro road was in that $57,000,000.

A. It is not.

Q. Will you have Mr. Mahl make up the detail of this, in the same manner?

A. Yes.

Q. Defendants' Exhibit 64 shows the percentage of increase in the the price of commodities which the Union Pacific system purchased between 1897 and 1908?

A. Yes.

Q. There are 23 or 24 commodities there. In the purchasing of supplies of the Union Pacific, you buy a great many more commodities than this, of course?

A. Yes.

Q. Did you select these with any reference to the rise in prices?

A. As far as I know, no. We asked the purchasing agents
7009 to furnish a list of some of their principal purchases between those dates, showing the prices paid in 1897 and 1908. I think another of these statements shows the rise in the prices of all commodities, for all of the railroads of the United States. It was a matter of great labor to take everything. We took some. There is another of these statements, as I remember, that shows the United States.

Q. Some of the commodities which you purchased have not gone up materially in price?

A. There are a few on this statement, for instance, car wheels, that show a very slight increase in price.

Q. Lubricating oil has not increased very much, has it? That is not on here, I think.

A. No, that is not here. I do not remember. We recently made some contracts for lubrication. As I remember it, they cover increases of prices; but whether in the actual price of the lubricant or in the resulting price of lubrication, I can not just say, without reference to the figures.

Q. You would have to have the settlement sheets on which your guaranties were settled, in order to state that?

A. Yes. Of course, a reference to the contract would show the prices per gallon in the two periods.

Q. The prices per gallon are what you might call invoice prices; they are all the same, but the real actual price you pay is the settlement you make on the guaranties; isn't that true?

A. Yes; as I remember it, that is the nature of the contract.

Q. You don't know whether that has increased during the ten years or not?

7010 A. The price of lubrication has increased, I know; because when we came to negotiate a new contract they wanted a good deal more money, and we paid them, as I recollect, some more, but not as much as they wanted.

Q. In directing the selection of these, did you select articles that had increased a good deal, or——

A. I did not direct the selection.

Q. Did you give any directions about that at all?

A. I just stated that I asked the purchasing agents to make up a list of their principal purchases for the two years, showing the relative prices.

Q. Steel rails are put down here, in 1907, at $18.75 per ton; and in 1908, at $28 per ton. Steel rails have been $28 a ton for a number of years past, have they not?

A. Yes.

Q. Since about what time, practically?

A. The lowest price that we ever bought steel rails for was in 1897. They were put up at $28; I don't remember at just what time, but probably three or four years after that.

Q. Most of the articles on this list increased materially during the next three or four years after 1897—those that have increased at all, I mean?

A. Yes, between 1897 and the date that this terminates—1908.

Q. But most of that increase was during the next three or four years after 1897, was it not?

A. I think not. My recollection is that there were very rapid and marked increases immediately prior to 1907. If you will pardon me a minute, I think I can illustrate that. (Referring to papers.)

Q. What exhibit are you referring to?

A. To a memorandum I have on one of my exhibits—Defendants' Exhibit 66.

Q. Is it in evidence?

A. I think not.

7011 The SPECIAL EXAMINER. You mean the memorandum is not in evidence. You gave the number of the exhibit.

Q. Does it give each year of these various articles contained in Defendants' Exhibit 64?

A. Yes. It is a memorandum that I put here to supplement Defendants' Exhibit 66. I think it has not been introduced; I do not remember it, and I was careful to number all. It gives, for each year, the commodity and wages, prices, and freight rates, from 1890 to 1907. This list enables me to answer your question: that, taken from the Government reports, 258 commodities considered by them in making the computations, rose 44 per cent between 1897 and 1907. I have not the figures for 1908; they do not seem to have been published. And, as confirming what you asked me, there was a rise, from 1897 to 1900, from an average price of commodities based on their basing price, which is the price of the preceding decade, from an index number of 90, to 110. That was to 1900. From 1900 to 1907 the average rose from 110 to 129½. In other words, from 1900 to 1907 the advance was a good deal more than half of the 44 per cent; and a good deal less between 1897 and 1900. Even more striking was this: In 1905 the index number was, in round figures, 116; the next year, 122.5; the next year, 129.5; showing the rapid increase to which I referred in the two or three years preceding the panic of 1907.

Q. But the biggest increase was from 1897 to 1900?

A. No, I said just the reverse.

Q. I misunderstood you then. May I see the sheet from which you make that up?

A. Certainly. And I will have a copy of it made for you. This is a typewritten memorandum. (Handing a paper to Mr. Kellogg.)

7012 Q. According to this statement, the increase from 1897 to 1900 was from index number 89.7 to index number 110.5, was it not?

A. Yes.

Q. That would be an increase of 21.2, wouldn't it?

A. That is correct, then. That is somewhat more than the other; that is an increase of 21 points, and the other is 19 points; 19 as against 21.

Q. I wish you would refer to Exhibit 102. As I understood you, Defendants' Exhibit 102, so far as the freight train speed is concerned, is made up on the basis of the actual speed of freight trains exclusive of stops?

A. Yes; I think I said that. That is correct.

Q. During that time there was a very large increase in the number of stops or meeting points, was there not?

A. Yes, the diagram shows it.

Q. Therefore there was more time taken in the stops at the end of that period than in the commencement of it.

A. That is, of course, as you choose to take it. A great many of the meeting points did not involve stops. They involve delays, and, if they are fortunately made, they may not involve a stop.

Q. What is your opinion about it? Was there more time taken in stops?

A. Yes, I think that is an entirely justifiable inference.

Q. The real thing that the shipper is interested in is the actual time consumed in going from one point to another—where the goods are shipped, isn't it?

A. Yes.

Q. So what would show the public's interest in this is the actual time which your freight trains made between those periods?

A. Yes.

7013 Q. Have you any exhibit showing the actual time of all freight trains during those two periods?

A. Not of all freight trains. We gave it, the other day, of the principal freight trains—those carrying Pacific coast traffic; and I gave you the time. I don't know as I gave you the time, but in my testimony I gave the time in 1901 and the time today. It is very much longer today; and we gave the reasons why it was longer.

Q. The time you gave of that 54 or 58-hour train that we were talking about——

A. 58 or 60 hours, as I remember it.

Q. That was from Omaha or Council Bluffs to Ogden?

A. Yes.

Q. That was simply the schedule time, was it not?

A. Yes. But that train makes its schedule very regularly. In the Salt Lake investigation we had that looked up. My recollection was that there was a great complaint made about the Salt Lake time; and I had it looked up, and, in my evidence, gave as to the Union Pacific, that 88 or 89 per cent of the time that freight was delivered in Salt Lake on time. And then the Salt Lake people said they were not complaining about the Union Pacific; they were perfectly satisfied.

Q. I am aware that that showed a greatly reduced speed.

A. And it agrees fairly well with the schedule, you see.

Q. Could you make statements showing the actual speed, including stops, of all your freight trains, which would compare with Defendants' Exhibit 102—made in the same way, I mean?

A. I suppose the schedules could be raked up. Given time enough, and trouble and money enough, we could make up that statement.

Q. This is made up from the time sheets, you say?

7014 A. That is made from a sheet that already works up concurrently the average speed of freight trains on the basis I have given.

Q. The same time sheets would show the actual time?

A. Not at all. They do not.

Q. Why wouldn't they?

A. Because the stops have been excluded.

Q. But the original time sheets all show the stops?

A. That is very true. But here is a period of ten years, by twelve monthly statements (120 statements) by five different systems. It would involve going through 600 sheets to get this. I do not say it cannot be gotten. I say, given time and money enough we could get it. The 100-hour train, however, as far as that train is concerned, it gives the speed. It is a thousand miles; about 10 miles an hour.

Q. But Defendants' Exhibit 102 does not purport to show the actual running time of trains between any given points?

A. Only as indicated and explained.

Q. Excluding the stops?

A. Yes. I would like to add this, however. You understand, that 100-hour train is included in the through time of 13 days from Atlantic to Pacific points, which is as good time as made by our principal competitor—the Atchison. And, as we understand from conference with them, entirely satisfactory to the public.

Q. I suppose your conference has not been with the entire public?

A. No. Of course, there is a small percentage (I do not like to give percentages, because you do not seem to like them), who are dissatisfied. I said that the other day. It is our aim always, of course, to work on this small percentage and to try to please them,
7015 because we would like to please the entire public. We do please, I can assure you, a very large percentage of them.

Q. You stated the other day that the Government consumed 27 hours and 39 minutes between Omaha and San Francisco, for inspection?

A. No, I did not say that. I said that the Government regulations added six hours, and, I think, 20 or 30 minutes, to the time that it took us for inspection; that the cumulative effect of these regulations, as near as we could make it, was about 6 hours and 20 or 30 minutes.

Mr. DUNNE. He said 6 hours and 6 minutes.

WITNESS. 6 minutes.

Mr. KELLOGG. I was going to add that, if you had not interrupted me.

Q. That the Government inspection added 6 hours and 6 minutes to the time of the trains?

A. Theretofore consumed.

Q. That is, since 1901?

A. Yes.

Q. Of course, the Government does not consume 27 hours and 39 minutes of your time?

A. No. I didn't say that.

Q. What did you mean by that 27 hours and 39 minutes?

A. I gave that as an estimate that was made to me of the total time and delays consumed in inspection, of which about 6 hours, I said, had been added by the Government requirements.

Q. The Government inspection is made at the stopping points of your trains?

A. No, the Government do not inspect whilst the railroad people are inspecting. What I mean is this: that the Government requirements as to the maintenance of safety appliances are so rigid, the fines are so harsh, so burdensome, that the railroads have been compelled to consume very much more time in insuring the condition of equipment to be such that they will not be fined.

7016 Q. I do not mean that actual Government employees inspected the trains. But inspected pursuant to Government regulation; that is what I mean.

A. That is right.

Q. You arrange that at points most convenient to yourself?

A. Yes.

Q. And when the trains are naturally stopping?

A. Yes. But I think I also called attention to this fact, in my testimony: that trains moving between terminals will frequently develop some small defect that does not make a car or a locomotive at all unsafe, but it technically comes under the law; and the law has been enforced so rigidly that we cannot afford to take risks: therefore, the train has to be stopped and these cars switched out. We cannot exactly estimate that as coming within the 6 hours. The 6 hours is for inspection at terminals. The other delays would be added to that, whatever they may be.

Q. Has the law been changed since 1901, or simply enforced more rigidly?

A. Oh, the enforcement has been changed altogether.

Q. Another item you mentioned was the time used in unloading, feeding and watering stock—that that delayed; but during that time from 1901 to the present time, the time a train may run without unloading, feeding and watering, has been greatly increased, has it not—from 28 to 36 hours?

A. I think that is quite probable. I do not know; but I think it is quite probable.

Q. Then, so far as that is concerned, you are in error that the change of the law had caused more delays?

A. As to stock alone?

7017 Q. As to stock alone.

A. Possibly the delay would be the difference between what we had voluntarily added and what the law had added.

Q. But the law gave you the right to run 36 hours without——

A. 28, I think it is.

Q. It is now 36, isn't it? It was 28.

A. I believe it is 28, with a proviso that you can take 36. But they are so strict in construing the conditions on which you can make the difference, that it is rather dangerous to run it.

Q. You gave the average number of miles a freight car moves per day on your roads, and compared it with certain other lines of road and also with the average of all roads, and showed that the Union Pacific, between Council Bluffs and Ogden, made 41 miles per day with freight cars.

A. 41, on the Union Pacific, the average daily mileage, yes, for the year ending June 30, 1909.

Q. Those statistics on the railroads are made up showing actual mileage including the stops—including the time the cars are standing still, are they not?

A. I would not compare time and miles; it compares miles run in 24 hours.

Q. That, of course, depends, in all those statistics, on how much time the car is standing still at terminals and loading points and unloading points; that is an average made up?

A. Yes.

Q. So that the nature of the traffic, to a very large extent, and not the speed of trains, determines this factor; terminals and——

A. I think I was careful to state that, the other day, when I gave those figures.

Q. If a railroad has a great many large terminals, if it has a good many industries along its main line, necessarily its cars average
7018 a much shorter distance in a day than though its haul is largely a through haul. I specially called attention to that in giving these figures.

Q. So that you take in the thickly settled portion of the country, like the Pennsylvania road, where there is enormous local traffic to coal mines, to industries, all along the line, to very large terminals in many places, the actual time made, of a freight car, is much less than on a line where the traffic is largely a through haul?

A. Of course, if you concentrate your mind and your examination on that particular traffic, yes. But take again an example that you have taken yourself: the Pennsylvania line, for its entire mileage, is a double track line, and, for the larger part of its mileage a four track line, where they have absolutely no obstruction from meeting points, and where you see whole strings of freight trains, sometimes, one in seven or eight sections going along without any delay. That advantage is compensatory, and makes up for the handicap of delay of cars at coal mines.

Q. I am speaking of all kinds of industries and large terminals, where they are numerous on a line of road.

A. That is what I am speaking of, too.

Q. That makes the actual running time much shorter, doesn't it?

A. You speak of running time. This is mileage per day.

Q. Mileage per day, yes.

A. That particular reason to which you called attention, unquestionably would tend to reduce the mileage per day. But there are other reasons that tend to increase it. The heavy-traffic eastern lines have so many tracks: take the New York Central; they not only have four tracks from Albany to Buffalo on their main line, but they have the West Shore road, with two tracks; they have six tracks,
7019 you may say, between the Atlantic and the Great Lakes.

Q. You explained that.

A. I know, but I want to make it clearer. There seems to be some misconception.

Q. Not a bit of it.

A. The Erie has a double track; the B. & O. has a double track a large part of the way; and so on. You can show that those roads, whilst in some directions there are influences tending to pull down the daily average mileage of freight cars, there are others contributing to a high daily average.

Q. The principal delay in freight car movement is at terminals, and at loading and unloading points; isn't that true?

A. That is quite true, yes, sir. I have said that.

Q. The principal delay is not simply at meeting points of a through running train, is it?

A. Yes, but a car, when you take the first case——

Q. Can you answer that? Is that true?

A. I am trying to answer it. No, I do not think it is true. The trains on the Union Pacific run up to 70 and 80 cars each, and every time you have a train delay it is imposed on 80 cars. Every time you speak of a delay in loading and unloading, the mind, naturally, from the line of your questions, concentrates on one car. The Union Pacific, with its 41 miles, has an excessively heavy coal tonnage, you know,—very heavy; and the same delays that the Pennsylvania experiences, the Union Pacific experiences at its mines.

Q. Do you pretend to say that the Union Pacific main line from Council Bluffs, including its connection (the Central Pacific) to San Francisco, has the same industries, terminals and delays that are incident to the Pennsylvania?

7020 A. I would say this: that on that part of the Union Pacific where it has its coal mines, the density of traffic in 1907 was higher than on any railroad in the United States, as I remember it, with the exception of the Reading and the Pennsylvania. That was on a single track. The Pennsylvania had four, and the Reading had, as far as I know, double all the way, and perhaps in places four. Therefore, to answer your questions categorically, the Union Pacific, on those parts of its line where it had these coal mines, was operating against handicaps compared with which those of the Pennsylvania were almost negligible.

Q. You think that answers my question, do you?

A. Yes.

Mr. KELLOGG. Will you please read the question to the witness?

Q. Did I include simply the parts having the coal mines? Didn't I ask you the entire line from Council Bluffs to San Francisco?

A. Perhaps you did. But the obstruction of traffic at one point would have struck traffic on the whole line.

Mr. KELLOGG. Please read the question to the witness.

The following question was read: "Do you pretend to say that the Union Pacific main line from Council Bluffs, including its connection (the Central Pacific) to San Francisco, has the same industries, terminals and delays that are incident to the Pennsylvania?"

WITNESS. How did I answer that?

Q. You answered that on the part where the coal traffic was, it did.

A. Well, before that say "on the entire line, no, but on that part," and then followed by the other.

Q. Much of the Southern Pacific and Union Pacific and Central Pacific lines run through a country where there are no local
7021 industries; is that not true?

A. That is rather a broad statement. I should not say no; but they are small. A large part of the mileage, yes, is in a country of small local industries.

Q. Therefore, no large terminals in that district?

A. No large terminals in that district. But the car mileage, as I just tried to explain, is affected by the single track and the number of trains on a single track.

Q. You stated that while your mail train took substantially six hours more in 1909 than in 1905, yet the mails were delivered at an earlier period in San Francisco?

A. Yes. So I understand.

Q. That is simply because the train started at an earlier hour in Chicago and enabled you to get to San Francisco at an earlier hour in the day, isn't it?

A. Of course I supposed you would find that out; and I told you so the other day.

Q. I did not understand you to say so.

A. I did.

Q. You stated that the taxes on the Union Pacific system had increased from $225 per mile in 1901 to $424 in 1909. I suppose the taxes on the Union Pacific are levied on an ad valorem basis, are they not?

A. What does that mean?

Q. An assessment of the property, cash value, or valuing the property instead of on its gross earnings.

A. Yes, there are provisions of state law governing that, with which I am not over-familiar.

Q. I think through all the states in which you run, your property is assessed as other property; I mean, it is assessed on a cash value.

A. There is a board of some sort prescribed by the state that makes the assessment.

Q. I am not asking you as to the law, except that the basis
7022 is value of property instead of percentage of gross earnings.

A. I do not know to what extent the assessors do that, but I understand that they fix the value. How they get at that, I suppose each man has to say for himself.

Q. I understand that. But the value of the property is fixed at so much per mile?

A. Yes.

Q. The value of the property had increased largely between 1901 and 1909, had it not, with all this money that you put in?

A. Yes. I have some information that I promised you I would work up for you. Adverting again to that rather disagreeable feature of percentages, the percentage increase—you will pardon me for referring to that, but really my mind is so constituted that it is about the only thing that pictures to me clearly just what does happen—on the Union Pacific there was an 89 per cent increase in taxes. The periods are not exactly the same. That is 1901 to 1909. The figures I have before me, taken from the Statistics of Railways of the United States, which is an Interstate Commerce Commission publication, show between 1899—which was the date referred to by you last week—and 1908, not double the capitalization, as you thought, but 52 per cent.

Q. What are you speaking of—Union Pacific?

A. No, I am speaking of the roads of the United States. You asked me, as I understood your question, whether I did not know that there had been a large increase of money put in all railroads.

Q. Yes.

A. Now, that is an increase of 52 per cent; but only 20 per cent of that is due to the additional money put in the railroads. Now, the taxes have increased 89 per cent.

Q. You think the taxes on the Union Pacific have increased greater than the value of its property?

7023 A. No, I have not said that yet.

Q. Do you now think so?

A. I would like to think it over and to look at the figures. I cannot say, offhand, what the value of the property was in 1901 and what it is today. But I did say, and do say, that it is much larger today than it was then.

Q. And the same with the Southern Pacific?

A. Yes. Of course, both of those percentages of increase are practically 90 per cent—one being 89 and the other 91; and I cannot say, offhand, whether the values have actually increased in that proportion or not.

Q. In making up the time of certain freight trains, you took a selected period—May, June and July, 1909, and the distance from Omaha to San Francisco, 1786 miles, and said that during that three months 168 cars moved between those terminals, and that that was all that moved between those terminals.

Mr. DUNNE. I did not so understand the testimony.

Mr. SEVERANCE. He said it in answer to my question, and it surprised me very much.

Mr. DUNNE. I think there must be some mistake about that.

Mr. SEVERANCE. I think so, too. But he said that.

WITNESS. I think Mr. Severance is right in quoting me as having said that. I said it on the strength of a memorandum which I have here, which was made up by one of our transportation officers, giving me that computation.

The following testimony of the witness was read:

"Mr. SEVERANCE. Was that the total movement from Omaha to "San Francisco during those three months?

"WITNESS. During those three months.

"Mr. SEVERANCE. That was the total number of cars—168?

7024 "WITNESS. So I understand.

"Q. At all events, 168 cars checked for May, June and "July, 1909, averaged 9 days and 3 hours.

"A. Yes."

WITNESS. The exact language used in the memorandum given me—and the gentleman who prepared it is here, and he can explain it, if I may be permitted to ask him for the explanation.

Mr. SEVERANCE. Oh, certainly, ask him.

(The witness conferred with a gentleman in the room.)

Q. Now, can you answer the question?

A. Yes. With regard to the 168 cars, I made my previous answer on the language of a memorandum here, which is a little ambiguous. The 168 cars were not all the cars that moved from Omaha to San Francisco; but this memorandum was made up for me when I was in San Francisco some months ago, and I asked to have the time that was being made by manifest freights between those points checked up. They took a number of these manifests, spread over the months of June and July, and they happened to total 168 cars, with the result that I have testified.

Mr. DUNNE. The month of May also, Mr. Kruttschnitt.

Mr. SEVERANCE. May, June and July.

WITNESS. The gentleman who prepared the memorandum says he has his notes here and that he can give the cars in detail if it is wanted.

7025 Redirect examination by Mr. DUNNE.

Q. Some reference was made to the reports to the Interstate Commerce Commission in 1904, and the years previous thereto. Was the tonnage of company freight included with the tonnage of revenue freight in the total tonnage reported in the ton mileage and also in the earnings for those reports; that is, for 1904 and previously thereto?

A. The Interstate Commerce Commission, at a certain time, some years ago, did change the basis on which they computed the statistics. I don't know just what year it was. Perhaps I have some note on it that would show.

Q. I think this is the memorandum that you gave me. (Handing paper to witness.)

A. Yes; I was misled in your question. This related to a question of average rates, and when you asked the question I thought at once of ton mileage. Of course one has a great deal to do with the other. The reason I did not understand your question was that the memorandum I made related to rates. (Mr. Reporter, will you read the question, and my answer, please.)

The question and answer were read.

WITNESS. As to the ton mileage, I think our reports still show that, but when it comes to a computation of the average rate, which is based on ton mileage, I do know that the Interstate Commerce Commission changed the basis for that; that, prior to a certain date, they computed the average rate on all of the tonnage carried, and
7026 subsequent to that date they confined the average rate to the commercial tonnage carried, cutting out the freight carried for the company itself.

Q. The dividing year was, I think, 1904?

A. I don't remember the year, but that seems to me about right. I should say, offhand, three or four or five years ago.

Q. This company freight at that time took the half percent per ton per mile rate, did it not?

A. As I remember it, the Union Pacific carried freight for the Short Line and the Navigation Company, which they owned outright (every share of the stock they owned), and I think the company rate was 5 mills up to the point where the freight reached the rails of the road on which it was used, and then no freight was charged. The Interstate Commerce Commission changed that, and I am quite certain that at the present time the Union Pacific must charge the other lines tariff rates.

Q. I think you were also asked some questions as to the ratio of operating expenses to earnings. Have you been able to compile a statement of those percentages for the Union Pacific and the Southern Pacific Company, from 1899 to 1909?

A. Yes. I was scolded so much about this operating ratio, which is really a tender point with me, because it is a question of checking up the efficiency of these gentlemen sitting around here, who are operating these properties, and I did not want them to get the idea that a low operating ratio was illegal; so I had the comptroller make this up himself. From 1899 to 1909 the ratio of operating expenses to earnings of the Union Pacific was as follows:—I
7027 suppose I had better read them up?

Q. If you please.

A. 1899, 52.16; 1900, 51.59; 1901, 53.60; 1902, 50.92; 1903, 53.53; 1904, 52.51; 1905, 51.19; 1906, 52.41; 1907, 53.36; 1908, 54.83; 1909, 48.18. Southern Pacific: 1899, 64.22; 1900, 64.78; 1901, 63.56; 1902, 65.71; 1903, 68.27; 1904, 67.98; 1905, 66.65; 1906, 64.49; 1907, 64.21; 1908, 68.68; 1909, 62.89. I stated the other day, I think, that the maximum operating ratio was reached in 1908, after the full effect of the 1907 panic had been felt—on both systems it was the highest—and on both systems in 1909, in face of the rigid economy practised and deferring repairs that were deferrable, the operating ratio was at the low-water mark. It was the lowest on both systems for the entire period of eleven years.

Q. Mr. Kellogg asked you some questions about the dividend rates on the Union Pacific. Have you prepared a statement of those dividend rates, including preferred and common?

A. I have. I stated in my testimony that it seemed to me the fair way to measure these dividend rates was from some previous period. I think Mr. Kellogg asked me what dividends had been paid from 1898, the time of the reorganization; so, I got the dividends from that date—from 1898 to 1909 inclusive. The preferred stock paid an average dividend of 3.67 per cent; the common stock an average dividend of 5 per cent, but in that average is taken 4 per cent paid annually from 1907 to date on investments, and not from transportation operations.

Q. I will ask you to give the figures, if you please; just
7028 call them off.

A. For the entire period?

Q. If you please.

A. In 1898 the preferred paid nothing, and from 1899 to 1909 it paid 4 per cent annually. In 1898 and 1899 the common paid nothing; in 1900, 3-1/2 per cent; 1901, 4 per cent; 1902, 4 per cent; 1903, 4 per cent; 1904, 4 per cent; 1905, 4-1/2 per cent; 1906, 6 per cent; 1907, 6 per cent on transportation operations, 4 per cent on investments; 1908 and 1909 the same as 1907. The average for both preferred and common was: for 1898, nothing; 1899, 2.31 per cent; 1900, 3.75 per cent; 1901, 3.96 per cent; 1902, 4.02 per cent; 1903, 4 per cent; 1904, 4 per cent; 1905, 4.19 per cent; 1906, 5.30 per cent; 1907, 7.98 per cent; 1908, 7.98 per cent, 1909, 7.92 per cent—average for the period 4.62 per cent.

Q. Have you made a statement for the Southern Pacific dividends?

A. Yes. In the years 1898 to 1904 there was no preferred, as I remember it, and it paid nothing; from 1905 to 1909, inclusive, it paid 7 per cent. The common from 1898 to 1905, inclusive, paid nothing. In 1906, 2-1/2 per cent; 1907, 5-1/4 per cent; 1908, 6 per cent; 1909, 6 per cent—an average for the period of 1.64 per cent. For the years 1898 to 1904 the average was nothing.

Q. You are now speaking of preferred and common?

A. Yes. In 1905 the average was 1.2 per cent; 1906, 3.2 per cent; 1907, 5.6 per cent; 1908, 6. 3 per cent; 1909, 6.4 per cent—an average for the period of 1. 9 per cent.

Q. Have you a statement of the average rates of dividend
7029 paid on stocks by all railroads of the United States, and in that same connection the dividends declared for 1908 upon dividend-paying stocks?

A. Yes. The average rate of dividend paid on stocks by all railroads in the United States, in 1909, on the authority of Poor's Manual—do you want the whole list?

Q. If you please.

A. In 1898, 1.71 per cent; 1899, 1.92 per cent; 1900, 2.44 per cent; 1901, 2.65 per cent; 1902, 2.97 per cent; 1903, 3.03 per cent; 1904, 3.31 per cent; 1905, 3.27 per cent; 1906, 3.63 per cent; 1907, 3.73 per cent; 1908, 3.50 per cent—or an average for the period of 2.92 per cent. In its 23rd annual report the Interstate Commerce Commis-

sion, on page 62, says as to all railroads in the United States for 1908, "The amount of dividends declared during the year was $386,879,000, being equivalent to 7.99 per cent on dividend-paying stocks." Now, answering the second part of Mr. Dunne's question: for the same year, 1908, the Union Pacific averaged on its preferred and common stock 7.98 per cent, and the Southern Pacific Company 6.30 per cent.

Re-cross examination, by Mr. KELLOGG:

Q. Speaking of the dividends on all railroad stocks in the United States, of course you do not pretend to say whether those stocks represent actual cash put in the road or whether they represent nothing, or what percentage represents nothing?

A. No, but I suppose naturally in these percentages that those matters have been pretty carefully looked into by the Commission and others who have made up these figures.

7030 Q. But the Commission does not look into the amount of money invested in a railroad stock: they simply take the stock and the dividend, don't they?

A. I don't know really what they look into; they are investigating so much I supposed they looked into everything.

Q. Do you think the Commission ever looked into the amount of money invested——

A. I am not competent——

Q. Just wait a moment until I ask the question. Don't be so eager. Do you think the Commission, in making up these statistics, have eliminated all watered stock?

A. What is watered stock?

Q. Stock not representing any money invested.

A. I want to get at definitions, because everything is in definitions. We have had some misunderstandings before.

Q. Will you answer the question? I gave you the definition.

A. That represents no value?

Q. Yes.

A. I don't know really what the Commission has looked into. I have several times gotten telegrams that they had a corps of accountants going through our offices, and what they looked into I don't know, but they have the power to look into everything, and I assume they exercise it.

Q. You have assumed, have you, that the Commission, so far as the Union Pacific and Southern Pacific are concerned, have investigated the exact amount of money invested in each one of your stocks, or, rather, that each stock represents the amount of money invested in the road?

A. I don't know, but, as I say, they have the power to do it, and I know they have made many investigations of our offices, and I

7031 rather assume that they have looked into everything that they thought of interest to the public.

Q. You assume that the Commission have determined, in looking up these statistics, the amount of stock that represents no investment in the property and have eliminated that, do you?

A. I said I think it is a fair assumption.

Q. And you believe, do you, in making that statement, that in arriving at the percentage of dividends paid on all railroad stocks in the United States, the Commission have eliminated or disregarded those stocks or that amount of stock which does not represent actual money paid into the road or property?

A. I have said two or three times that I don't know that that is the case.

Q. Do you believe that to be the case?

A. From the investigations made by the Commission I suppose they have satisfied themselves as to the fairness of these valuations.

Q. In arriving at the amount of dividends paid on the capital stock of railroads, is there any question of fairness of valuation involved at all?

A. No, I do not think the dividend rate has anything to do with that, and I don't think it has anything to do with the fairness of rates, which we discussed here last week. The mere fact of a reduction of the dividend of the Union Pacific would not make a rate that was reasonable, unreasonable; or *vice versa*.

Q. Now, take the Union Pacific dividends. The preferred stock is limited to 4 per cent, isn't it?

A. Yes.

7032 Q. They have paid it every year except 1898?

A. Yes.

Q. That is limited by the charter to 4 per cent, isn't it?

A. I think so.

Q. They could not pay any more. Now you said that in 1907 the Union Pacific paid 6 per cent on its common stock from operation and 4 per cent from investments?

A. Yes.

Q. What were those investments?

A. I couldn't tell you offhand. I understand in a general way they are investments in stocks of other railroad companies.

Q. The Southern Pacific, Northern Pacific and Great Northern at that time?

A. Yes. The annual reports show that. I have no desire whatever to conceal from you what it is, because the annual reports show it.

Q. How do you know they paid the 4 per cent from investments?

A. Mr. Harriman has told me that.

Q. You do not testify from your own knowledge, then?

A. No. I testify from what——

Q. Isn't it a fact that the Union Pacific mortgaged its railroad for $100,000,000 to buy stocks of other roads, and that the interest on that 100 millions is paid out of operating earnings and fixed charges against the road prior to dividends?

A. The annual reports show that; I can't answer that off-hand. The Comptroller is here; he can answer that.

Q. And those 4 per cent bonds issued to buy securities, $100,000,000, were converted into common stock, and since 1907 the company has paid 10 per cent on that, haven't they?

A. I don't know. As I say, the men are here. The Commis-
7033 sioners of course looked into that; they know every step that has been taken; there is nothing secret about it, nothing covered up. I do not know.

Q. But when you are stating the small amount of dividends the company has paid, I thought you might know the money it has paid as interest on these charges.

A. I will tell you why I stated that. The last time you had me you were very anxious to know about these 10 per cent dividends—you inquired about it. I made a statement that the public had got a very handsome return in our failure to raise rates to keep pace with increasing expenses. The drift of your questions was that the dividend rate was too high, and that ought to have been reduced.

Q. Did I say that?

A. I gave those figures because, in thinking over the matter, I couldn't see what possible effect a reduction of dividends would have on a rate that was otherwise reasonable, or how the road could reduce its rates between certain points, which I understand now are made uniform by law, without attracting all of the freight to it, and then the earnings would have been bigger still. The other roads would have been bankrupted, apparently.

Q. What year did the Southern Pacific issue its preferred stock?

A. I don't know. If you want this and will list these questions, I think——

Q. You have been testifying about the amount of dividends the Southern Pacific paid, and I asked you when it commenced to pay dividends on its preferred stock.

A. Those are points on which you seemed to be peculiarly
7034 interested on Friday, and I told you I would look up these matters. As I tell you now, if you want this information I will look it up for you and give it to you, if you will say what you want.

Q. You never issued any preferred stock of the Southern Pacific Company until the year you mention, of the commencement of paying dividends, did you?

A. I think I said that.

Q. So you always paid your dividends on your preferred stock?

A. From that date—1905 to 1909.

Q. You did not have any preferred stock before that, did you?

A. I said so.

Q. You do charge some improvements to operating expenses, don't you?

A. Yes, in the past we have charged a good many. We do not now, as I understand it. The Interstate Commerce Commission has

prescribed very rigid rules as to what must be charged to expenses and what to capital.

Q. I am speaking about during the past years, shown in this table.

A. Up to the time when the Commission issued its regulations, which of course have the force of law, we charged certain improvements to operating expenses. All roads were doing that.

Q. Certainly; all roads were doing it. So that the operating expenses during some of these years between 1899 and, say, 1907 or 1908, would be affected by the amount charged for improvements to operating expenses?

A. Why, of course.

7035 A. H. MOHLER,

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination, by Mr. LOOMIS:

Q. Please state your residence and occupation, Mr. Mohler.

A. My residence is Omaha, Nebraska; vice-president and general manager of the Union Pacific Railroad.

Q. Will you give us the character and extent of your railroad experience?

A. About forty years: originally connected with the Chicago & Northwestern at Galt, Illinois, as warehouse and office clerk; transferred to the Rockford, Rock Island & St. Louis as station agent; then to the auditor's office of the same road at Rockland, Illinois; then to the Burlington, Cedar Rapids & Northern as pioneer agent, chief clerk of the freight department, assistant general freight agent, and general freight agent; then to the Great Northern Railway as general freight agent, land commissioner, general superintendent, assistant general manager and general manager; then to the Oregon Railroad & Navigation Company, as president; since April 1, 1904, vice-president and general manager of the Union Pacific Railroad.

Q. Since coming to the Union Pacific Railroad have you acquainted yourself with the changes which were made in the physical characteristics of the road since the reorganization, in 1898?

A. Generally so.

7036 Q. I wish you would state in detail the principal changes in the physical characteristics of the road which have been made since the reorganization in 1898.

A. As compiled from the chief engineer's records, from Council Bluffs to Ogden, the Omaha-Lane cut-off was constructed, a distance of 15 miles, with a saving of 8.9 mileage over the previous old line located farther south. The eastbound grade of the old line was 42.2 feet to the mile; the westbound line was 41.7 to 66 feet per mile. The new line as constructed made the grade 26.4 eastbound, and from

31.7 to 66 feet westbound. From Lane to Grand Island, a distance of 129.7 miles, the eastbound grade of the old line was 39.4, of the new line 26.4; the westbound grade was 42.2, and of the new line 31.7. From Grand Island to North Platte, a distance of 137.3 miles the eastbound grade and the westbound grade remained unchanged on both the new line and the old. From Sidney to Cheyenne, a distance of 102.1 miles, the eastbound grade on the old line was 45 feet to the mile, on the reconstructed line 37 feet; the westbound grade on the old line was 39 feet per mile, and the reconstructed line 37 feet. From Cheyenne to Laramie, which carries the line over the summit of the Rocky Mountains, a distance of 56.5 miles, the old grade was 98 feet eastbound, and on the new line 43 feet; on the westbound, the grade was 87 feet, which was changed to 43 for some distance, and 82 maximum. From Laramie to Medicine Bow, a distance of 72.4 miles, this line by a change of line was reduced to 56.6 miles, a saving of 15.8 miles. The grade on the old line was 53 feet to the mile eastbound, 43 feet on the new; westbound on the old
7037 line 83 feet, 43 feet on the new. From Medicine Bow to Rawlins, the distance on the old line was 64.1 miles, which was reduced to 60.2 miles by reconstruction; the grade on the old line eastbound was 76 feet to the mile, on the reconstructed line in the same direction 43 feet. On the old line westbound 66 feet, on the reconstructed 43 feet. From Rawlins to Wamsutter, a distance of 42.5 miles of old line, reconstructed to 41.3 miles new line. The grade of both the east and westbound old line was 67 feet, while the grade was reduced to 43 feet in both directions on the new line. From Wamsutter to Green River, a distance of 93.1 miles, the reconstructed line is 92.9 miles; the grade eastbound on the old line was 70 feet, on the west line 67 feet; the grade on both east and west lines of the new constructed line was 43 feet. From Green River to Granger, a distance of 30.6 miles, reduced to 30.1; the grade in both directions on the old line was 67 feet; reduced to 43 feet on the newly constructed lines in both directions. From Granger to Evanston, distance 79.7 miles, reduced to 70.1 miles, by the construction of a tunnel of 6,100 feet; the grade in the eastbound direction was 68 feet, on westbound 69. These grades were reduced to 43 feet in both directions.

Q. Did you give the length of that tunnel?

A. 6,100 feet. Making a saving in the reconstructed distance from Omaha to Ogden of 40 miles.

Q. In making these track changes to which you have just referred, were portions of the old line entirely abandoned?

A. Yes; there was considerable over 150 miles of the old line abandoned.

Q. And how many miles of the reconstructed railroad were there?

A. 188 miles.

7038 Q. Can you tell us how much of this reconstructed mileage was in Nebraska and how much in Wyoming?

A. Principally in Wyoming, through the mountainous territory.

Q. Were other tunnels constructed than the Aspen tunnel in this reconstructed work?

A. The Sherman tunnel on the top of the Rocky Mountains.

Q. What is the length of that?

A. 1,800 feet.

Q. What is the highest point on the Union Pacific Railroad?

A. The new line or old?

Q. The new line.

A. 8,011 feet.

Q. What is the name of the point?

A. Sherman.

Q. Can you give the altitude on the old line?

A. I understand it is 247 feet higher.

Q. Then, the altitude was reduced by reconstruction 247 feet?

A. Yes.

Q. Were there any track changes made upon other divisions of the road than the one between Council Bluffs and Ogden?

A. There were extensive changes made between Kansas City and Topeka, where we were operating a single track and which was replaced by a double track, with considerable change in alignment and grade.

Q. Were there any track changes recently in the vicinity of Cheyenne?

A. We had what we call the Athol Hill on our line between Cheyenne and Denver, which had an unprofitable operating grade, a grade of 95 feet to the mile westbound, in excess of our Sherman Hill or Rocky Mountain grade, and 84 feet eastbound. By building 17½ miles of new line we reduced this grade to 63 feet westbound
7039 and naturally a descending grade eastbound, shortening our distance from Denver to Ogden 13½ miles, lengthening our distance from Denver to Cheyenne 2,000 feet.

Q. The cut-off you have just referred to was so constructed as to connect with the main line west of Cheyenne, was it not?

A. Yes; the first and second stations, at Borie and Corlett.

Q. Were two connections made with the main line?

A. There were.

Q. One at Borie, and where was the other?

A. Corlett.

Q. Is Corlett nearer Cheyenne than Borie?

A. Yes.

Q. How much?

A. One is about 4 miles distant and the other about 8, approximately.

Q. Therefore, the trains running from Denver to Ogden would connect with the main line at Borie; is that correct?

A. The freight trains are operated that way for convenience; the passenger trains are operated into Cheyenne, but could be operated direct when necessary.

Q. The trains for Cheyenne connect with the main line at Corlett?

A. Yes.

Q. That is, the train from Denver approaches Cheyenne from the west?

A. From the west.

Q. And it leaves Cheyenne for Denver by going west?

A. Yes.

Q. Then taking this cut-off?

A. Yes.

Q. And going south?

A. Yes.

Q. Have any new lines been built by the Union Pacific Railroad since the reorganization in 1898?

A. Yes. We have built from O'Fallons to Northport, Nebraska, along the North Platte River, 114.88 miles; we have built in Nebraska from Stromsburg to Central City Junction, on our main line,
7040 21.98 miles; we have constructed in Kansas from Menoken to Carden 69.71 miles.

Q. Carden is near Marysville, is it not?

A. Yes. We constructed in Nebraska what is known as the Lane cut-off, 11.61 miles. We have constructed in the coal territory, in the vicinity of Rock Springs, Wyoming, 9.05 miles. We have about completed construction, in the vicinity of Greeley, Colorado, what is known as the Pleasant Valley branch, 13.16 miles. We have about completed in the same vicinity what is known as the Greeley branch, a distance of 26.16 miles. We have also under construction and nearly completed from Sand Creek, a station immediately outside of Denver, to La Salle, a distance of 40.47 miles. The purpose, primarily, of this construction is to put in between La Salle and Denver a double-track service. We are authorized, contract has been let, and work is under construction, to build a line in Colorado from Dent to Fort Collins, a distance of 24.75 miles. We have recently contracted for, and the contractors are on the ground, a line to what is known as Kilpacker Creek, a distance of 21.73 miles.

Mr. SEVERANCE. Is that in Colorado?

WITNESS. That is in Wyoming, in the coal field district.

Q. Please give a statement of the double track which has been laid since the reorganization in 1898.

A. My records only go back to 1900.

Q. Then start at that date.

A. On the main line of the Union Pacific, from Council Bluffs to Ogden, there were double tracked in 1900, 11.33 miles.

7041 Q. Where was that located?

A. From Council Bluffs to Gilmore. In 1901, 1902 and 1903 our double track represented in each of those years a total of 69.12 miles. In 1904, 94.65 miles.

Q. Is that the total mileage?

A. The total mileage. In 1905, 94.65 miles; in 1906 the same; in 1907, 214.52 miles.

Q. That represented the total mileage for that year?
A. On the main line of the Union Pacific—not Kansas Division.
Q. What I meant was that does not represent additional mileage?
A. No; it represents the total.
Mr. SEVERANCE. Brought it up to that?
Mr. LOOMIS. Yes.
WITNESS. In 1908 it was 297.12 miles.
Q. That was also total mileage?
A. Yes; the total mileage for 1909 was 390.25 miles.
Q. Will you describe where this double track is located?
A. This double track is located between Council Bluffs and Watson's Ranch, in Nebraska, Archer and Buford, in Wyoming, and Lookout to Hannah, in Wyoming.
Q. Is there a piece just east of Laramie?
A. Yes; I was coming to that. Between Hermosa and Laramie, Rawlins and Wamsutter, Point of Rocks to Rock Springs, Green River to Granger, and two miles from Ogden station immediately east.
Q. Was there any double track in Kansas?
A. 69 miles in Kansas; 2 miles from Denver east.
Q. What does that make the total mileage of your double tracks at the present time?
A. 459 miles.

Q. 69 of that in Kansas and 2 in Colorado. How many
7042 miles of this double track are now in actual operation?
A. All of it.

Q. How much of it was put in commission in 1909?
A. About 70 miles.
Q. What time in 1909?
A. During various parts of the summer.
Q. How much double track do you anticipate putting down during the year 1910?
A. We have under active construction 226 miles.
Q. Between what points?
A. Running from Watson's Ranch to Julesburg; Rock Springs to Green River, in Wyoming; Hannah to Rawlings, in Wyoming, and 2 miles in the vicinity of Denver, from Sand Creek to Pullman.
Q. That makes 226 miles under construction?
A. Yes.
Q. Did you mention the double track being constructed between Rock Springs and Green River?
Mr. SEVERANCE. Yes; he spoke of that.
Q. Do you expect to complete all this double track now under construction during the year 1910?
A. Yes; we are making every effort to do it because it is absolutely necessary we should.
Q. Will you give us a description of the automatic block signal system which has been inaugurated on the Union Pacific system since the reorganization of the company in 1898?

A. There were about 10 miles of block system on the Union Pacific Railroad about the time of the receivership, between Council Bluffs and Gilmore. This has now been extended so that we have at the present time 1,529 miles, covering our main line from Council Bluffs to Ogden, our Denver line from Julesburg to Denver, our Kansas line from Kansas City to Topeka, and now under construction and
7043 coming in service daily (small portions of it) from Topeka to Salina, in Kansas; from La Salle to Cheyenne in Colorado and Wyoming.

Q. Your Denver line leaves the main line at Julesburg, I understand?

A. Yes; from the east.

Q. So that makes a continuous system of automatic block signals on your Denver line from Council Bluffs to Denver via Julesburg?

A. It does.

Q. What purpose does the automatic block signal serve?

A. It produces safety in operation, it eliminates accidents, and it makes the life of an officer and of the men very much more comfortable than it would be without it.

Q. It displays signals for the guidance of engineers in the operation of the railroad, as I understand?

A. Yes. The signals ahead are protected two signals in advance, and the signals in the rear are protected two signals in the rear, and then we have the additional precaution of maintaining our flagmen rules.

Q. That is, you still protect with flagmen on the rear of the train?

A. As an auxiliary protection.

Q. What purpose does the block signal serve other than that of warning engineers of the approach of trains, etc.?

A. It is a remarkable discoverer of broken rails.

Q. In what way is that accomplished?

A. Whenever the rail breaks, as a rule it breaks the circuit and it throws the signal to danger. The company has escaped, we believe, some very serious accidents through that medium.

Q. As a matter of fact, your attention has been called to a good many broken rails by the action of the automatic block
7044 signal system?

A. Frequently. Our enginemen in operating their trains during the winter months would as soon think of going past a block signal as they would of visiting a smallpox house.

(A recess was here taken until 2 o'clock p. m., at which time the witness was recalled and direct examination resumed by Mr. Loomis.)

Q. Please state in a general way the betterments which have been made on the Union Pacific Railroad since you became general manager, with respect to stations, water service, stockyards, etc.

A. Since April 1, 1904, we have installed 89 passing tracks, 68 terminal tracks (terminal developments), and 259 industry tracks, representing a total of 946,198 lineal feet, at a cost of $1,265,224.

Q. I call your attention to the matter of stockyards.

A. We have constructed during that same period 58 stockyards, at an expense of $72,853. We constructed during the same period 45 section houses.

Q. Going back to the stockyards, I wish you would call attention to the more extensive ones which you constructed.

A. The more extensive stockyards were constructed for feeding purposes at Green River, Rawlins, Laramie, North Platte, and Grand Island. These yards were used for the purpose of taking care of stock under the 28-hour and 36-hour requirements, and were located and designed after conference with the Stock Growers' Committee of the State of Wyoming as to the manner in which they should be constructed and where they should be located, and had their entire
7045 and full approval; and we consider they are more extensive and more modern in their character than the yards of any similar roads west of Chicago.

Q. How are they fitted up?

A. They are fitted up with different apartments, with electric lights in many instances, with water facilities, and also with hotel accommodations.

Q. These electric lights are arc lights for the purpose of lighting up the yards?

A. Yes.

Q. Have you any photographs giving views of the stockyards, stock-feeding pens, or any of them?

A. I have.

Q. Stockyards at what places?

A. At the points I have mentioned—Green River, at a cost of $28,848; Laramie, at a cost of $15,836; Rawlins, at a cost of $14,866; Grand Island, at a cost of $17,129; North Platte, at a cost of $29,761.

Mr. LOOMIS. Under the same stipulation heretofore entered into with respect to other photographs, we offer in evidence the photographs just referred to by the witness and ask to have them marked as exhibits.

The photographs were marked Defendants' Exhibits 112 to 120, inclusive.

Q. Please proceed with your statement.

A. Numerous section houses were constructed during this same period. The majority of the buildings were constructed some 40 or 50 years ago and had outlived their usefulness, required a great deal of renewals that could not properly be chargeable to a later building of more modern design.

Q. How many section houses?

A. 45 of these houses were constructed at a cost of $59,740, and 274 miscellaneous buildings at a cost of $101,713. In connec-
7046 tion with the depots, there were a great many of them requiring replacement on account of their advanced age and earlier construction, and 36 of those were built during this period, at an expense of $113,057.

Q. Will you call attention to any depots which are entitled to special attention?

A. The Omaha depot, constructed since the receivership, at the close of the receivership, at a cost of $406,178.

Q. Is the title of that building in the Union Pacific Railroad Company?

A. It is.

Q. Have you a photograph of this depot at Omaha?

A. Yes.

The witness produced photographs which were marked Defendants' Exhibits 121 and 122.

Mr. LOOMIS. I offer these photographs in evidence, under the same stipulation; in fact, all of these photographs which I will now offer will be under the same stipulation.

Q. Proceed, Mr. Mohler.

A. A depot at Columbus, Nebraska, at an expense of $28,036.

Q. Have you a photograph of that depot?

A. I have.

The witness produced a photograph which was marked Defendants' Exhibit 123, and offered in evidence.

WITNESS. Depot at Rock Springs, Wyoming, at a cost of $12,534.

Q. Have you a photograph of that depot?

A. I have.

Photograph produced by the witness marked Defendants' Exhibit 124, and offered in evidence.

WITNESS. A photograph of the depot at Sterling, Colorado, cost $6,618.

7047 Q. Have you photographs of that depot?

A. I have.

Q. Two?

A. Yes.

The witness produced two photographs which were marked Defendants' Exhibits 125 and 126, and the same were offered in evidence.

Q. Are there any other depots to which special attention should be called?

A. A sample of our suburban depot on the Lane cut-off, with park surroundings, at a cost of $5,292.

Q. On the outskirts of Omaha?

A. Yes.

Q. Have you a photograph of that depot?

A. I have.

Photograph produced by the witness marked Defendants' Exhibit 127, and offered in evidence.

Q. Are you building a new depot at Central City?

A. Yes, a new depot now under construction and near completion, at a cost of $20,000. Also a new depot at Green River, Wyoming, under construction, and near completion, to cost $50,000. There was completed during this same period a depot at Manhattan, cost $9,695.

Q. Have you a photograph of the Manhattan, Kansas, depot?
A. I have.

The photograph produced by the witness was marked Defendants' Exhibit 128 and offered in evidence.

Q. What has been the policy of the company with respect to making its depots and surroundings attractive?

A. It is a believer in ornamentation and is developing quite an extensive park system in connection with its various depots. It has
33 parks of considerable importance now installed, and quite a
7048 large number of minor ones. As a sample of some of our best
parks I have a photograph representing the Cheyenne depot and surroundings.

The photograph produced by the witness was marked Defendants' Exhibit 129 and offered in evidence.

Q. Will you proceed with your statement as to betterments.
A. We are installing a great many steel water tanks.
Q. Before leaving the matter of depots, let me call your attention to the matter of the depot at Kansas City.

A. The company has entered into obligations, in connection with other roads at Kansas City, to construct a new passenger depot. The company will probably have to pay not less than $2,000,000 as its share of such construction, in order to improve its facilities in that territory.

Q. Let me call your attention to the terminals at Sharon Springs and Hugo, Colorado, on the Kansas division.

A. We have constructed at Sharon Springs and Hugo, Colorado, new terminals, which were required under the 16-hour federal law. These terminals represent an expense of from $120,000 to $140,000 each.

Q. Have you photographs illustrating the buildings at these terminals?

A. I have a photograph of the Sharon Springs roundhouse and depot, which is a duplicate of that at Hugo.

Q. Have you a picture also of the water station at Sharon Springs?
A. In the distance.

Q. Sharon Springs is located in the western part of Kansas, is it not?

A. Yes.

Q. Why do you say that these terminals were required under the 16-hour law of Congress?

7049 A. As originally located, the distance of these terminals was too great for a train crew to perform the service within the 16-hour limit. Therefore it required these additional stations in order to cover the territory within the limits of the law.

Mr. LOOMIS. The photographs of the buildings at Sharon Springs are marked Defendants' Exhibits 130 and 131, and I offer the same in evidence.

Q. When were these terminals completed?
A. Completed last year.

Q. How far apart are Hugo and Sharon Springs?

A. 105 to 110 miles.

Q. How far from Sharon Springs to the terminal east of it?

A. About the same distance.

Q. Before that time how far apart were your terminals?

A. Something like 160 or 170 or 180 miles; I forget the exact distance.

Q. Let me call your attention to the matter of coaling stations.

A. The coaling stations that are now being installed are called the conveyor type, and are so arranged as to feed two or three tracks. They are expensive construction over old methods, but they facilitate the movement of trains, by handling the coal by gravitation, and therefore remove some of the old difficulties that were in effect at the close of the receivership, of handling coal by buckets and cranes and other ancient methods.

Q. As I understand it, before the construction of these modern coaling stations, coal was piled on a platform and either
7050 shoveled into the locomotive or carried into it in boxes. Is that correct?

A. There were various methods, all of them more or less crude in their character.

Q. How is the coal handled by the modern method?

A. By conveyor type and gasoline power, elevated to a higher altitude and then dropped into bins.

Q. How is the coal carried into the elevator in the first place?

A. By taking it out of the car, dumping it down.

Q. Dumping it into a pit?

A. Yes.

Q. About as grain is dumped into an elevator pit?

A. Substantially the same method.

Q. And is carried up into the coaling station?

A. Yes; with link belts.

Q. Link belts holding buckets?

A. Yes.

Q. And the coal is permitted to run into the locomotives by gravity?

A. Yes.

Q. Is that the manner of constructing all of your coaling stations at this time?

A. That is the method now, and we have a great many of those now installed.

Q. How does the cost of those coaling stations compare with the more primitive ones formerly used?

A. The cost of these runs from $10,000 to $30,000.

Q. Have you a photograph illustrating the type of coaling station to which you have just referred?

A. I have, for Hannah, Wyoming.

The witness produced a photograph which was marked Defendants' Exhibit 132, and the same was offered in evidence.

Q. Please proceed with your statement as to betterments.

A. The company has installed at Green River what is known
7051 as a recreation building. The purpose of this building is to provide accommodation for its employees in the way of bath conveniences, sleeping conveniences and rest house, and thus remove them from influences of a different character in that particular country. The cost of this building was $28,848. A building of similar design is under construction at Evanston.

Q. When was this building completed at Green River?

A. Last fall. It meets with the general approval of the employees and is believed to be a wise and humane and Christian proposition.

The photograph referred to was marked Defendants' Exhibit 133, and offered in evidence.

Q. Let me call your attention to the matter of engine houses.

A. During this period there were 7 engine houses constructed.

Q. By that, you mean roundhouses?

A. Yes. At a cost of $104,588. There is now in for approval and construction this year enlargement of terminal facilities at Green River, Evanston, Laramie, Cheyenne, North Platte, and Grand Island, aggregating a little over $2,000,000.

Q. I call your attention to the matter of track scales.

A. The track scales originally installed were short and had worn out their usefulness, and the car lengths and capacity having increased, made necessary the substitution of numerous track scales along the line, in order to comply in many instances with state and federal requirements for the weighing of property in transit.

Q. I also call your attention to the matter of icing houses.

A. In the matter of icing houses, for the purpose of hand-
7052 ling the enormous quantity of refrigerator freight over the lines of the Union Pacific, we have expended, in addition to the facilities which were in effect prior to the close of the receivership, $188,000. I believe it is generally conceded that the Union Pacific has one of the largest icing propositions in the United States, located at North Platte, where 20 or 30 cars can be simultaneously iced, with very little delay.

Q. Where are these ice houses located? Mention the principal ones.

A. Icing houses are located at Ogden, Evanston, Green River, Rawlins, Laramie, Cheyenne, Sidney, North Platte, Grand Island, Council Bluffs, Omaha, Columbus, and also some stations on the other divisions.

Q. As I understand you, the ice is used for refrigeration purposes and also for passenger service?

A. Yes.

Q. How many cars can be iced at one time in one of these large ice plants?

A. 20 to 30.

Q. Have you been installing safety devices at highway crossings since you became general manager?

A. We have installed quite a number of crossing bells at high grade crossings or public highways, at a cost of $25,454.

Q. In connection with these safety devices I wish to call your attention to the matter of crossings over the Lane cut-off. The Lane cut-off is 11 miles long, I believe. Am I correct in that?

A. Substantially.

Q. How many crossings, railroad and highway, are there over or under the Lane cut-off or at grade?

A. There are three overhead railroad crossings, three under-
7053 ground railroad crossings and three overhead highway crossings.

Q. Any crossings at Grade?

A. One.

Q. Only one crossing at grade?

A. Yes.

Q. Is it the policy of the company to avoid grade crossings, either of railroads or highways, wherever possible?

A. It is the policy of the company to eliminate highway crossings, public highway crossings at grade, wherever it is feasible to do so.

Q. Let us now take up the matter of new steel bridges.

A. In connection with our double-track work, in the vicinity of Elk Horn we have installed a double-track bridge, of modern construction, at a cost of $94,116.

Q. Have you a photograph of that bridge?

A. I have.

The photograph produced by the witness was marked Defendants' Exhibit 134, and offered in evidence.

Q. Proceed, Mr. Mohler.

A. Over the stream at North Platte we constructed a steel bridge, replacing a wooden structure, at a cost of $91,939.

Q. Have you photographs of the old and new bridge at that point?

A. I have, yes, sir.

The photographs produced by the witness were marked Defendants' Exhibits 135 and 136, and offered in evidence.

Q. Have you a picture of the original wooden bridge over the Platte River?

A. It is attached.

Q. Proceed.

A. A steel bridge at Fort Steele, Wyoming, over a branch of the North Platte River, at a cost of $40,524.

Q. Have you a photograph of that bridge?

A. I have two views.

7054 The two photographs produced were marked Defendants' Exhibits 137 and 138 and offered in evidence.

Q. Are there any other bridges of special importance to which you wish to call attention?

A. Yes. There is a double-track bridge, just completed, over the Loup River, near Columbus, Nebraska. The photographs show the

old bridge and the new construction. The cost of the new construction was $215,140.

The photographs were marked Defendants' Exhibits 139 and 140, and offered in evidence.

Q. Let me call your attention to the proposed bridge at Kansas City.

A. At Kansas City the company has arranged for the expenditure of a new bridge over the Kansas River, at a cost of $415,000.

Q. To be erected this coming season?

A. To be erected during the present season, the plans having been approved by the War Department. We have constructed at Omaha a commissary building, for the purpose of taking care of our supplies for dining cars and hotels. The expense of this building is $127,465. I have a photograph of it.

The photograph produced was marked Defendants' Exhibit 141 and offered in evidence.

Q. Have you any photographs of the feeding yards you have recently constructed?

A. I have already given those.

Q. Have the photographs been offered in evidence?

A. Yes. I have here a photograph of the Omaha shops as constructed since the close of the receivership, representing
7055 machine shops, boiler shops, storehouse, car shops, blacksmith shops, and other accessory buildings necessary for a plant of this character, constructed at an outlay of $2,028,296. It is one of the most complete shops of its kind in the country, for its size. I have a photograph.

The photograph was marked Defendants' Exhibit 142, and offered in evidence.

Q. While on photographs, you are asked if you have photographs showing the tracks of the company in various localities.

A. I have samples of our standard track maintenance at Granite Canyon, Wyoming.

The photograph was marked Defendants' Exhibit 143, and offered in evidence.

Q. What is the next one?

A. St. Marys, Kansas.

The photograph was marked Defendants' Exhibit 144, and offered in evidence.

WITNESS. Also at Peterson, Utah.

A photograph of the track at Peterson was marked Defendants' Exhibit 145, and offered in evidence.

Q. Does Defendants' Exhibit 145 give a good view of the automatic block signals?

A. Yes. Another view of Watson's Ranch, Nebraska—of our track in that district.

The photograph was marked Defendants' Exhibit 146, and offered in evidence.

WITNESS. Another view of Otto, Wyoming.

The photograph was marked Defendants' Exhibit 147, and offered in evidence.

WITNESS. Another of Echo, Utah.

7056 The photograph was marked Defendants' Exhibit 148, and offered in evidence.

Q. Have you any more photographs?

A. I have several photographs of the Lane cut-off, showing highway bridge and tracks.

Mr. LOOMIS. I offer the photograph of the Lane cut-off, showing overhead highway crossings.

The photograph was marked Defendants' Exhibit 149.

Q. The next one.

A. Overhead bridge on the Lane cut-off, double track, Chicago & Northwestern crossing.

Q. Is that Union Pacific overhead bridge?

A. Union Pacific.

Q. With Chicago and Northwestern Railroad underneath?

A. 90 feet below.

The photograph was marked Defendants' Exhibit 150, and offered in evidence.

WITNESS. A photograph representing the progress of construction of the Lane cut-off in filling embankments.

Q. Was the trestle shown in this photograph entirely covered with earthwork?

A. Finally.

The photograph was marked Defendants' Exhibit 151, and offered in evidence.

WITNESS. Another view of the same line, in another portion, of one of the heavy fills, showing the same operation of construction—filling the trestle, which was finally filled to the height of the trestle shown.

The photograph was marked Defendants' Exhibit 152, and offered in evidence.

7057 Q. Have you built any interlocking plants?

A. A great many interlocking plants have been built at various points in Nebraska and Colorado, for the purpose of protecting the railroad crossings at grade.

Q. Mention the principal points at which these interlocking plants have been constructed.

A. Council Bluffs, Omaha, Freemont, Central City, Columbus, Borie, and others on the Kansas division.

Q. Can you tell us the cost of these interlocking plants?

A. They average from $10,000 to $20,000 a plant—original construction.

Q. What is the annual cost of maintaining your automatic block signal?

A. About $80 per signal per annum.

Q. What does that represent for the entire system per annum?

Mr. SEVERANCE. You mean the Union Pacific alone?

Mr. LOOMIS. The Union Pacific alone, the Union Pacific proper, of which Mr. Mohler is general manager.

A. The 1529 miles of electrical installation, not less than $225,000.

Q. For merely operating and maintaining them?

A. Yes, sir.

Q. About how many men are employed on the Union Pacific in the maintenance and operation of the automatic block signal system?

A. About 175.

Q. Please describe the improvements which have taken place in the equipment on Union Pacific rails since the reorganization of the company in 1898.

A. Prior to the receivership the freight car equipment was largely of wooden construction. In 1899 the Union Pacific purchased
7058 its first thousand cars of steel construction for freight equipment. It purchased in 1901, 335 additional cars, 500 additional cars in 1903, 1 in 1905, which was an experiment of new design and construction; 104 in 1907, 40 in 1908, 120 in 1909, and 42 under contract since June 1, 1909. During this same period there were purchased what is called steel underframes for all kinds of freight car equipment, including steel cars, today 46.35 per cent of the total car equipment being steel construction or steel underframe construction. During this same period, commencing with 1906, the company commenced experimenting with steel passenger equipment. During that year it purchased 7, and additional ones since that date and under contract, having in service today about 80 cars, and has discontinued entirely the purchase of wooden equipment for passenger-car purposes.

Q. What is the object of using steel instead of wooden cars?

A. It believes that in case of unpleasantness in train service, the loss of life is very much less.

Q. How does the cost of steel equipment compare with the cost of frame equipment?

A. Very much larger.

Q. Please advise us in regard to the size of your freight car equipment now as compared with its size and capacity in 1901.

A. Freight car equipment now is largely purchased with a capacity of 100,000 lbs. or 50 tons. At that time the ruling capacity was about 30 tons, or 60,000 lbs.

Q. Has there been an increase in the number and capacity of locomotives since 1901?

7059 A. Yes, there has been considerable increase. In 1901 we had 551, in 1900 we had 517, with tractive power of 23,880 lbs; in 1909 we have 660, with tractive power of 29,936, or an increase in tractive power of 38 per cent.

Q. Has any improvement been made in the way of increasing the comfort of the traveling public, in the way of additional facilities for passenger trains?

A. There are many more dining cars in service; observation cars have been attached to many of our trains, and other observation cars with sleeping facilities—many others.

Q. How does the number of observation cars and dining cars now in service compare with those in service in 1901?

A. I should think in the observation cars it was twelve times as great; and in the matter of dining cars, we operated about 10 in 1900, and now have 39.

Q. I wish you would describe in a general way the number and character of the through limited trains that the Union Pacific Railroad Company is now operating.

A. We had no electric lighted trains in 1900 or during the receivership. There has since been installed an electric lighted train operating from Chicago to Portland without change of cars; another one installed from Chicago to San Francisco without change of cars; another one installed from Chicago to Los Angeles, up to the period of the recent flood, without change of cars; another one installed from St. Louis to Cheyenne, without change of cars; 2 each way installed between Chicago and Denver without change of equipment.

7060 Q. Over what road do these trains run between Chicago and Council Bluffs?

A. Over the Chicago, Milwaukee & St. Paul and the Chicago-Northwestern.

Q. Tell us about the character of the equipment carried in these limited trains.

A. The character of equipment carried in these trains is the equal of any equipment carried in any other train in the country. It is the best of modern construction.

Q. What sort of cars are carried?

A. We are carrying sleeping cars, observation cars, dining cars, and steel chair-cars in some of the trains, as well as steel baggage cars.

Q. Which of the limited trains carry steel day-coaches?

A. The Denver trains, and the Los Angeles trains and the Portland trains.

Q. The Overland Limited carries no coaches?

A. No.

Q. Have the betterments which you have just described resulted in a material improvement to the service?

A. Yes. Without them it would have been impossible to handle the present traffic satisfactorily. Traffic in general volume is handled very expeditiously, with more satisfactory and better service in both freight and passenger than was provided for in 1900.

Q. To what extent has the traffic between Council Bluffs and Ogden increased from the year 1901 to the year 1909?

A. About 113 per cent.

Q. Can you give the ton miles from 1900 to the present time?

A. In 1900 the ton miles from Council Bluffs to Ogden were 3,775,980,210; 1901, 3,855,436,652; 1902, 4,110,833,810;
7061 1903, 4,324,881,370; 1904, 5,484,663,397; 1905, 6,539,550,992; 1906, 7,371,347,196; 1907, 8,111,666,457; 1908, 7,718,508,000; 1909, 8,064,882,000.

Q. The years you refer to are fiscal years I presume?

A. Entirely.

Mr. SEVERANCE. Ending June 30?

WITNESS. Yes. These figures include the weight of cars and contents, but do not include the weight of engine and tender.

Q. These figures, as I understand it, all refer to the traffic between Council Bluffs and Ogden over the main line?

A. During those periods, yes.

Q. And the ton miles have increased between 1900 and 1909 to the extent of 113 per cent?

A. Yes; it has more than doubled.

Q. Do these figures include the weight of cars as well as of contents?

A. They do.

Q. Do they include the locomotive and tender?

A. They do not.

Q. To what extent has the passenger traffic increased on the main line between Council Bluffs and Ogden between the same years?

A. Between Council Bluffs and Ogden, the passenger train mileage in 1900 was 2,597,450; in 1901, 3,050,152; in 1902, 3,047,073; 1903, 3,787,193; 1904, 3,620,976; 1905, 3,369,509; 1906, 3,963,243; 1907, 4,297,398; 1908, 4,484,687; 1909, 4,400,949.

Q. That is an increase of what per cent from 1900 to 1909?

A. About 69½ per cent.

7062 Q. I presume these figures also cover fiscal years ending June 30?

A. They do.

Q. Can you give a representation of the increase in passenger traffic by a statement of the average number of trains one mile passing over the main line between Council Bluffs and Ogden?

Mr. SEVERANCE. That is, the average number of passenger trains?

Mr. LOOMIS. Yes.

A. Yes. The average number of passenger trains per mile one day was as follows:

1900	7.31	1905	9.18
1901	8.22	1906	10.80
1902	8.27	1907	11.70
1903	10.36	1908	15.37
1904	9.83	1909	12.28

Q. What increase do those figures represent?

A. About 68 per cent.

7063 Q. What was the effect upon the service, of this large increase in freight and passenger traffic?

A. The frequency of the service, the frequent meeting of the trains, and its volume, in connection with safety and operation, made

it necessary to slow up the trains as compared with the earlier history of the traffic, and made it more difficult to operate trains on schedules.

Q. Now, in the year 1900 did you have a fast freight train, carrying California freight, between Council Bluffs and Ogden?

A. We did.

Q. What was the number of the train?

A. It was called No. 19, and handled California, Utah, and Oregon freight.

Q. What was the schedule time of that train in 1900?

A. 54 hours and 30 minutes.

Q. What was the schedule time of that train in 1901 and 1902?

A. In 1901, 58 hours and 25 minutes; 1902, 64 hours.

Q. What class of freight did that train carry?

A. Manifest or preferable commodities.

Q. Please explain what you mean by "manifest or preferable commodities."

A. Articles that, for traffic reasons, were specially selected to have preferable service, to avoid delays in transit; and represented, at that time, in total number, 34; which included beer, canned goods, cheese, condensed milk, chocolate, crackers, cranberries, crockery, earthenware, eggs, fish, fruits, furniture, go-carts, molasses, nursery stock, organs, oysters, paints, packing-house products, pianos, perishable freight, poultry, sewing machines, spirits, stoves, syrup, sugar,
7064 varnish, vegetables, whiskey and wines, woodenware, bicycles, and mixed carloads of merchandise.

Q. How was this particular class of freight given preferential attention?

A. By what we call the manifest way bill, which is inaugurated when the shipment starts at the terminal, and carries with it a photograph record through to the other terminal or its final destination. The shipment is watched continuously from one terminal to another, and any delay reported to that shipment is at once wired to the division officer, as to the cause and reason of the delay, so it can be early reinstated in resumption of service.

Q. In 1901 the preferential service was given only to the class of articles which you have just enumerated?

A. That is all.

Q. In what class of freight trains was the general merchandise other than the commodities that you have enumerated, carried?

A. Any articles not embraced in this list, if this list was sufficient in volume to fill up the train, would take a very much slower schedule; would move from one division terminal to another more or less at the convenience of traffic and the disposition of the division officer. It was not an expedited service, and it was not so intended to be.

Q. The expedited service at that time was confined to the 34 articles you have read?

A. Entirely.

Q. Was the number of manifest articles increased at any time; if so, when?

A. In 1904 there was a very material increase in these manifest articles, so as to give more general expedited service on all the traffic handled, rather than to confine it to a few articles—as was the case in 1900.

Q. In referring to all other traffic handled, do you mean to
7065 include freight other than general merchandise?

A. Yes. I have a list of all the articles which came under manifest ruling in 1904.

Q. Have you a list of the additional manifest articles added to the list in 1904?

A. I have.

Q. Will you please read the list?

A. Acids, agricultural implements, baskets, bath tubs, beer, buggies——

Mr. SEVERANCE. Beer was given in the other list.

WITNESS. Yes, but this is now the list as it stands.

Q. The list you are now reading includes all of the articles now included as manifest articles?

A. It does.

Q. It embraces also the list which you have just read?

A. It does.

Q. With that understanding, please proceed with the reading.

A. Benzine, boards, straw and wood pulp, boats, bottles, box material, building material, bridge material not railroad, broom corn, butter, cable wire, carriages, canned goods, cans, cartridges, cement, condensed milk, cereals, cheese, chocolate, cocoa, coffee, cooperage, crackers, cranberries, crockery, demijohns, doors, windows, etc.; earthenware, eggs, enameled ware; fish, frozen, pickled and salted; fixtures, bank, bar and store; flour for export; fruits, fresh and dried; furniture, gasoline, glass, glucose, glycerine, go-carts, granite, graniteware, ice-cream freezers; iron, sheet and tin; laths; lumber, finished hard-wood; machinery, malt, mantels, marbles, matches, meters, mineral water, molasses; nails for export, naphtha; nursery stock; oils of all kinds; ore, organs, oysters, packing house prod-
ucts, paper bags and boxes, paper, paints, pianos, piano and
7066 organ stools, pipe, pottery, poultry, plaster, powder, pumps, plumbers' supplies, crockery, ranges, refrigerators, safes, sewing machines, sheep dip, sheet steel, soap, spirits, stamped ware, staves and heading, stoves, store furniture, stoneware, structural iron, structural steel, syrup, terra cotta, theatrical scenery, tin plates, tinware, trunks, turpentine, varnish, vegetables, vehicles in parts, wagons in parts, wagon wood, whiskey and wines, windmills in parts, wire fencing, wire and woodenware; representing 113 articles as against 34 articles covered by similar service in 1900.

Q. Are these articles which are usually carried in carload lots?

A. Generally.

Q. Prior to 1904 what was the average time actually consumed in carrying the commodities other than the 34 included in the original list, between Council Bluffs and Ogden?

A. The other material which was carried, outside of this expedited service, as nearly as our records develop, is about 125 hours.

Q. All of these articles now receive the same sort of service and attention?

A. The same general treatment.

Q. As a matter of fact, did train No. 19, afterwards changed to train No. 53, make its schedule time between Council Bluffs and Ogden in the years 1901 and 1902 and thereabouts?

Mr. SEVERANCE. I think I will object to that testimony, on the ground that it has developed by the testimony of the witness that he has no knowledge of the matter; that is to say, that he was not at that time an official of the road. These ordinary reports I do not mind being testified to by him; but when you ask him about
7067 the movement of trains and all that, you should have the witness who has had to do with it.

Q. Have you made an investigation to determine whether or not this train did actually make the schedule time between Council Bluffs and Ogden during the period I have inquired about, to wit, the years 1901 and 1902, and thereabouts?

A. I have.

Q. Please state the results of your investigation—what the facts are.

Mr. SEVERANCE. I reserve the same objection to that.

A. As taken from the train dispatchers' sheets in effect at that time, and as compiled under my instructions by the parties who had charge of this class of work, we find——

Q. Please state, first, how the investigation was made.

A. The investigation was made in this manner: we selected three days in the month of June and three days in the month of October, without reference to what they would produce, so as to take a general average of the performance. We selected June for the reason that it represented the lightest month in the fiscal year's service, where the operations were the easiest and least difficult and not affected by weather conditions. We selected October because it represented the heaviest month in the fiscal year, but entirely free, still, from what is known as weather conditions, which occur later in the winter season and are one of the serious difficulties under which we operate over the backbone of the continent. With reference to that information, we have here on June 3, 1900, this train scheduled at 54 hours and 30 minutes. The dispatchers' sheets were not obtainable from Green River to Ogden.

Q. Was the track between Green River and Ogden under the jurisdiction of the operating officials of the Union Pacific
7068 Railroad Company at that time?

A. Yes. The schedule time of this train from Green River to Ogden was 15 hours. The time actually consumed in running from

Council Bluffs to Green River was 65 hours. Assuming that this train would lose no additional time and would make its schedule of 15 hours, that would represent an actual service of 80 hours as against the published schedule of 54 hours and 30 minutes. On June 11, 1900, this same train operated from Council Bluffs to Green River in 43 hours and 10 minutes. Assuming that it would not lose any additional time, its delivery at Ogden would be 58 hours and 10 minutes. On June 19, 1900, the time consumed on this train, from Council Bluffs to Green River, was 93 hours and 18 minutes. Had it lost no additional time, it would have reached Ogden in 108 hours and 18 minutes instead of 54 hours and 30 minutes. On October 1, 1900, this same train consumed, in the territory named before, to Green River, 52 hours and 19 minutes. Its time at Ogden, if it lost nothing more on its schedule, would be 67 hours and 19 minutes. On October 9, 1900, the time consumed to Green River was 71 hours and 59 minutes. If no more time was lost, Ogden would be made in 86 hours and 59 minutes from Council Bluffs. On October 17, the time consumed to Green River was 66 hours and 5 minutes. If no additional time was lost, the train would have reached Ogden in 81 hours and 5 minutes. June 2nd, 1901, at which time the train dispatchers' sheets were available for the entire district——

Q. What was the schedule time June 2, 1901?

A. The schedule was 58 hours 25 minutes. June 2, 1901. The train actually consumed 82 hours and 5 minutes. June 10, 1901, the train actually consumed 84 hours and 30 minutes. June 18, 1901,
7069 the train actually consumed 85 hours and 20 minutes. October 2, 1901, the train actually consumed 84 hours and 5 minutes. October 10, 1901, the train actually consumed 81 hours and 45 minutes. October 18, the train actually consumed 65 hours and 15 minutes. On June 1, 1902, this train, in the same district, consumed 74 hours and 10 minutes.

Mr. SEVERANCE. What was the schedule time then—just the same?

WITNESS. Just the same. On June 9, 1902, 77 hours and 10 minutes.

Mr. SEVERANCE. Did you intend to give only two days in June?

WITNESS. That is all I find, Mr. Severance. I think one sheet has been mislaid. I can obtain it if necessary. October 3, 1902, 123 hours and 45 minutes.

Q. What was the schedule then?

A. 58 hours and 25 minutes. October 11, 1902, 97 hours and 40 minutes. October 19, 1902, 129 hours and 30 minutes. December 21, 1902, the schedule of this train was lengthened to 64 hours. On June 2, 1903, the train consumed 92 hours and 20 minutes. June 10, 1903, 83 hours and 25 minutes. June 19, 1903, 108 hours and 18 minutes. October 4, 1903, 81 hours and 35 minutes. October 11, 1903, 81 hours. October 22, 77 hours and 50 minutes. This information was prepared by some of our operating officers who are now here, and who had charge of the conduct of the business at that time, and who furnished this information.

Q. Was the time of this train afterwards lengthened out?

A. The time was lengthened out at various periods——

Q. I have in mind specially the lengthening which took
7070 place in October, 1907.

A. In October, 1907, this train was lengthened out to 101 hours, from Council Bluffs to Ogden.

Q. Was it afterwards reduced somewhat?

A. A few minutes; to 100 hours and 45 minutes.

Q. Was there usually more than one section of train No. 9, or train No. 53 as it was afterwards called?

A. No. 53 had of late years a good many sections in addition to the regular train; sometimes three, four, five and six, depending on the season of the year.

Q. Am I correct in assuming that the number of 19 was changed to 53?

A. That is correct.

Q. Did these various sections all run upon the same schedule?

A. As nearly as possible.

Q. What additional schedule freight trains did you have on the road, between Council Bluffs and Ogden, during the year 1907 and prior thereto?

A. We organized (I believe in 1904 or 1905) train No. 55, which carried the freight from Council Bluffs and from the Kansas territory (connecting at Cheyenne) to Montana, Idaho, Oregon, and Washington points, via Granger, at which point the Oregon Short Line diverged on the westbound traffic.

Q. Was that train frequently run in sections?

A. Very frequently run in sections of 3 and 4, and sometimes as high as 6 and 7.

Q. Was that train able to make its schedule time?

A. No more so than the other.

Q. What did you have on the road at that time in the way of green fruit trains?

Mr. SEVERANCE. To what time are you drawing his attention?

Mr. LOOMIS. 1907 and prior thereto.

7071 A. The green fruit service, eastbound, when it became a matter of importance, and in 1903 it represented 9,711 cars for the fiscal year——

Q. What year was that?

A. 1903. This traffic in 1908 represented a total number of cars of 19,748; it had nearly doubled in that period of five years.

Q. Was that traffic carried on a schedule train?

A. That traffic was carried usually on a schedule time of 80 hours, generally speaking; sometimes a little more and sometimes less, but 80 hours was the basic time from Ogden to Council Bluffs.

Q. Was that traffic confined to eastbound movements entirely?

A. Entirely. And frequently live stock was added to this train, in order to give a smaller number of cars the expedited service.

Q. Were those green fruit trains run in sections?

A. Yes. Sometimes we would get four and five a day. It depended entirely upon the season. They would fluctuate. Their preference was to send this stuff largely by the more southern lines during the more severe weather, and via the northern lines in the summer weather.

Q. This green fruit service was through service from Ogden to Council Bluffs?

A. Yes.

Q. Did you have another through schedule train, hauling meats, in the year 1907 and prior thereto?

A. Yes. When this traffic began to increase so rapidly, we finally determined upon the feasibility and advisability of inaugurating, three times a week, a train carrying from Council Bluffs to Ogden packing house products and other perishable freight, rather than have it carried indiscriminately upon what was known as
7072 manifest trains. Those trains when inaugurated were pleasing to the patrons, to the extent that they were well patronized from the outset and are today.

Q. All of these trains that you have just referred to are through trains?

A. All through trains.

Q. Are there conditions existing on the line of the Union Pacific which make it more difficult to operate trains, than upon the lines of the eastern and middle states?

A. Yes, I think decidedly so. In the first place, we are compelled to lift a car, in the first 550 miles, about a mile and a quarter in height; from a one thousand foot altitude at Omaha to slightly over eight thousand feet at the summit of the Rocky Mountains. And the weather conditions, the wind velocity, is a very serious feature in our operation, and prevails almost continuously in the North Platte and Cheyenne territories.

Q. How many ascents are your trains compelled to climb in crossing the Rocky Mountains?

A. Three of importance.

Q. Name them.

A. From Cheyenne to Buford.

Q. That is over Sherman Hill?

A. Over Sherman Hill. From Laramie to Creston, over the Continental Divide; and from Granger to Aspen tunnel, in the vicinity of Evanston.

Q. Are there other climatic conditions prevailing in the Rocky Mountain district, which make it difficult to operate trains, or have you mentioned them all?

A. Naturally at that altitude, our snow and low temperature are more general and cover a larger number of months than they do in the lower altitudes. For example, I took temperatures, from December 1, 1909, to January 15, 1910, and found the average temperature at Evanston, Green River and Rawlins, four degrees above zero.

7073 The coldest weather experienced was forty degrees below, and the most torrid weather, thirty-nine above.

Q. That is the country in which you have nine months of winter and three months late in the fall?

A. Sometimes we think we have fourteen months of winter.

Q. What were the operating conditions on the Union Pacific Railroad between Council Bluffs and Ogden, in the summer and fall of 1907, preceding the lengthening out of your schedule trains?

A. We had increased our passenger trains to such an extent, and the freight traffic had increased to such an unexpected extent, that we were substantially congested almost continually, from one end of the line to the other. Some of this had primarily been brought on to us by the San Francisco earthquake in April, 1906. Having destroyed the terminal facilities of the Southern Pacific, we were compelled to hold cars back, by instructions, in our own territory; so it congested our terminals, it prevented the expedition of the movement of freight westbound, and even, in some instances, we had to appropriate our new second track for the storage of this equipment; and this difficulty continued well up towards what is known as the panic month of 1907.

Q. What month was that?

A. October, 1907.

Q. Were your schedule trains at that time making their schedule, between Council Bluffs and Ogden?

A. They were not; and they could not.

Q. Why could they not?

A. There were entirely too many trains to pass; too many trains to meet. The speed assigned to these trains was impossible of execution.

Q. Because of the large amount of traffic on the road?

A. Because of the large amount of traffic and the numerous trains to meet.

7074 Q. What time were your schedule trains actually making in September and October, 1907, between Council Bluffs and Ogden?

A. They fluctuated considerably, because, being unable to deliver our freight to the western lines, the matter of time was not a question of such vital importance; for after we had reached the western terminal, during a large portion of 1907, we were compelled to retain until convenience of reception of the receiving lines.

Q. Can you give us an idea of about the actual time the trains were making then, between those points?

A. I should say, under unobstructed conditions, about 100 hours from Council Bluffs to Ogden.

Q. Why was the time of your schedule trains, including 53, lengthened out in October, 1907?

A. Because, after conferring with all of our operating officials, it was a matter of great concern to us, and some pride, and some dissatisfaction, that we were not able to make a printed schedule, and we tried to find a remedy. We first applied it a number of times in try-

ing to force the business, to run the trains faster and to instill into the division officers and the men its necessity. All of that was gone over repeatedly, from week to week, and month to month, without any apparent results. We then decided that it was very much better for us to utilize the efficiency of the power, handle more cars to the train, operate less trains on the road, and cover the ground more regularly and systematically—which has substantially been done, barring the unusual conditions which occur in the operation of property since that time.

Q. Please state what you mean by utilizing the full power of the locomotive.

7075 A. A locomotive is gauged in its capacity by the speed desired; by the grades it overcomes; and also by the weather conditions prevailing at certain seasons of the year; and in changing this rating we added from one to two and three hundred tons more to the train. In that way we were enabled to overcome the congestion and permanently remove it.

Q. That is, you used the reserve power of the locomotive which before that time had been used in the attempt to make the schedule time?

A. Trying to make an impossible schedule.

Q. You utilized that power by adding greater tonnage to the train?

A. We did.

Q. And the effect of that was what?

A. To remove the congestion and to permit the freer operation of the trains, and with greater safety.

Q. Prior to the time of lengthening out the schedule, were you as a matter of fact attempting to make the time upon the published schedules?

A. We made every possible effort to do so, with an absolute failure.

Q. Then, when the schedule time of 53 was made 100 hours, and the time of other trains was lengthened out, you were merely making schedules which more nearly corresponded with the time the trains were actually making?

A. We were applying the practice to the schedule instead of the schedule to the practice.

Q. In your judgment was the lengthening out of these schedules an absolute operating necessity?

A. I do not think there is any question about that; because it is a matter that none of us liked to do, and we resisted it for months, until we were absolutely compelled to recognize it; until we had so increased our trackage facilities that we were able to handle this traffic with less difficulty.

7076 Q. State the character of the service as to being satisfactory or otherwise, since the lengthening out of these schedules.

A. Nobody is perfectly satisfied with a railroad, individually. But I have not had any complaints about our character of service, for some time. We have had a great many compliments.

Q. How does the extent of the traffic now compare with the volume in 1907, at the time you had this difficulty?

A. The traffic is heavier today than at any time in the history of the property.

Q. Did the methods adopted in October, 1907, enable you to make a faster and more expedited movement of all the traffic handled, taking it as a whole, between Council Bluffs and Ogden?

A. We believe that the general movement of the traffic was more uniform and less discriminating than it had been previously.

Q. How about the speed at which the traffic as a whole is handled?

A. What do you mean?

Q. Now as compared with what it was in 1901, say?

A. In 1901 I think we moved a few cars quicker, and a great many slower. I think we now move them all in such a way that the average is very much better for the entire movement.

Q. Are you able to state what the average movement per car per day is on the Union Pacific Railroad?

A. When the car difficulties became so pronounced and there was so much criticism in the west as to the incompetency of the railroad companies to supply equipment, there was organized a branch of the American railway service to tabulate statistics, to find out where the difficulties lay and what corrective efforts could be made to utilize the equipment more generally, more rapidly and more
7077 satisfactorily. To this branch (which was established in January, 1907) each of the large important roads reported, of which the Union Pacific was one. These statistics were uniformly compiled upon these reports. A compilation of this information, to February, 1909, shows that during this period the Union Pacific's equipment from Council Bluffs to Ogden moved at the rate of 41½ miles per day, from January, 1907, to February, 1909.

Q. Does that include all the equipment moved?

A. This includes all classes of freight service.

Q. Upon the Union Pacific proper as a whole?

A. Yes.

Mr. SEVERANCE. You mean the main line, or the branches and all?

WITNESS. It takes in more than the main line. It takes in the service of the whole property.

Q. That includes the road as a whole, does it?

A. Yes.

Q. Are you able to give the average movement per car per day on some of the other large railroad systems in the United States, as shown by the same statistics?

A. As prepared by the same bureau: the Santa Fe road, from Chicago to Albuquerque, 26.7 miles; the Santa Fe from Chicago to Kansas City, 26.7; the Santa Fe from Kansas City to Denver, 26.7; the Great Northern, St. Paul to Seattle, 21.5; the Northern Pacific, St. Paul to Portland, 21.4; the Chicago, Rock Island and Pacific, Chicago to Denver, 23.3; the Chicago, Burlington & Quincy, Chicago to

Denver, 29.6; the Chicago, Milwaukee & St. Paul, Chicago to Seattle, 24.7; the Chicago, Milwaukee & St. Paul, St. Paul to Seattle, 24.7; and the same line, from Chicago to Omaha, via the St. Paul; the Pennsylvania, during the same period, from New York to Chicago, 23.9; the New York Central, during the same period, 25.2.

7078 Mr. DUNNE. What Union Pacific freight movement did you have in mind when you gave the figures 41.5? Was that Council Bluffs to Ogden?

WITNESS. Whatever it says there.

Mr. DUNNE. I notice it says here "Council Bluffs to Ogden, 41.5; Council Bluffs to Denver, 41.5; Ogden to Council Bluffs, 41.5." You aimed to give the showing exhibited on this paper, did you not?

WITNESS. Yes, as prepared by the American Railway Association.

Q. Will you please give us the average speed in miles per hour, of all through passenger trains on the Union Pacific various divisions, A. T. & S. F., Canadian Pacific, Great Northern, and Northern Pacific?

A. Union Pacific, Omaha to Ogden, 30.7.

Mr. SEVERANCE. That is the number of miles per hour?

WITNESS. Per hour.

Mr. SEVERANCE. Does that include stops?

WITNESS. Yes. Omaha to Denver, 34.3 miles per hour. Omaha to Portland, 29.6. Omaha to Frisco, 27.5. Omaha to Los Angeles, 31.8. Santa Fe, Kansas City to Los Angeles, 27.9. Canadian Pacific, Winnipeg to Vancouver, 25.3. Great Northern, St. Paul to Seattle, 28.7; St. Paul to Portland, Northern Pacific, 27. This information is shown for the year 1909. I would like to state that the schedules of passenger trains on the western roads are like a moving picture show—you never know when the next picture is coming in sight. Any schedule shown here is likely to be changed, and these have all been changed, at least some of them, at the present time; some of them accelerated.

7079 Q. Would it be possible to operate a freight train between Council Bluffs and Ogden in 54 hours, at the present time?

A. Yes, sir.

Q. In what manner?

A. By side-tracking passenger trains, side-tracking mail trains, side-tracking live stock, side-tracking fruit, side-tracking manifest trains, and taking some risks in operation.

Q. What speed is it necessary to make to operate a train between Council Bluffs and Ogden in 54 hours? I refer to the average speed.

A. I think the average speed would be about 18½ miles per hour.

Q. Including stops?

A. Yes.

Q. What would be the maximum speed necessary to operate a train on a 54-hour schedule?

A. From Omaha to Ogden, about 70 per cent of our mileage is an ascending grade, and on that ascending grade the time would nat-

urally be slower than it would be on the descending grades. The speed would probably be, at some points on that entire district, as high as 40 miles per hour, if not more.

Q. Do you regard that as a safe rate of speed for a freight train?

A. I consider it reckless.

Q. In your judgment as an operating man of many years' experience, is the service on the Union Pacific Railroad being given the full benefit of all the betterments which have been made and to which you have testified?

A. I believe it has, fully.

Q. Is the traffic being handled to the best possible advantage for the benefit of the shipper?

A. We believe it is, with the present facilities.

Q. What about complaints as to service?

7080 A. They are very few. There will always be some complaints. If the Almighty was general manager, he would probably get the same complaints that we do.

Cross-examination by Mr. SEVERANCE.

Q. You have stated that in the aggregate you had reduced the mileage from Omaha to Ogden 40 miles, or substantially that?

A. On reconstruction?

Q. Yes; since 1900?

A. Since the close of the receivership.

Q. That was about 1898?

A. Yes.

Q. How much of that, if you know, had been done prior to 1900?

A. I can only tell you from memory, that all of it was done prior to 1904, except the Lane cut-off.

Q. When the Union Pacific road was reorganized, you were employed by what company?

A. The Oregon Railroad & Navigation Company.

Q. That was a connection of the Union Pacific, and, shortly after, acquired by the Union Pacific?

A. Yes.

Q. So, although you had not accurate knowledge of operation, perhaps, you had a pretty fair knowledge of the Union Pacific property at that time, owing to the fact that you were operating in connection with it? The physical condition of the property, I mean.

A. I had what most people would have—a superficial knowledge; because I had troubles of my own.

Q. You had been frequently over the road, had you not?

A. No; I did not go that way, as a rule. I went by way of St. Paul; because my parents resided in St. Paul, and I visited them by taking that route.

Q. So you were not very familiar with the physical condition of the Union Pacific property?

A. No, sir; not at that time.

7081 Q. It is a fact, is it not, that immediately after the close of the receivership, or very shortly after, very extensive plans were set on foot to improve the physical condition of the road?

A. That was as I understood it from gossip and rumor.

Q. It was common railroad knowledge wasn't it?

A. Yes.

Q. And after you became intimately acquainted with the property, you found evidences of that sort of work there, did you not?

A. I found improvements made.

Q. That was during the administration of Mr. Burt?

A. Yes.

Q. He was the first president of the reorganized company, was he not?

A. Yes.

Q. And up to what time was he president of the Union Pacific?

A. Close to the fall of 1903, I think.

Q. It was shortly after his retirement that you went to Omaha, was it not?

A. Yes, several months.

Q. You left the O. R. & N. and went on to Omaha?

A. Yes.

Q. At that time had the Lane cut-off been built?

A. No, sir; never had been touched.

Q. That was built under your administration?

A. Yes, sir.

Q. What portion of these lines that you described in detail, where shortening in mileage had taken place, had been finished prior to your assumption of your duties there?

A. Substantially all, except that there was considerable ballasting necessary. The changes of line had been made, but there was considerable unfinished work in the ballasting of track.

Q. These improvements that were made to the road, aside from reducing the mileage to the extent of 40 miles, eliminated a great deal of curvature, also, did they not?

A. They did.

7082 Q. Do you know how many circles were eliminated between Omaha and Ogden by the changes in the alignment?

A. I have that information here, but not with me.

Q. Can you have it by day after tomorrow?

A. Yes.

Q. That was very great, you remember that, do you not?

A. Yes.

Q. That is, the changes. And does that make it possible to operate trains more economically and speedily and with less power?

A. It makes it more comfortable.

Q. Doesn't it make it possible to haul more tonnage with the same engine?

A. It aids.

Q. Very considerably, doesn't it?

A. In some places.

Q. Of course it depends on the degree of the curves, I understand.

A. Yes.

Q. But as a general proposition it is true, isn't it?

A. It depends on the degree of the curve, and it depends on the grade of the track.

Q. In answer to Mr. Loomis, you stated that you had reduced the grades a good deal in different places?

A. Yes, sir.

Q. Are you able to state in the aggregate the amount of such reduction, per mile?

A. In rise and fall?

Q. Yes.

A. Not from memory.

Q. Have you those figures so you can have them here day after tomorrow?

A. I think I can obtain them. I have had them compiled heretofore, but I haven't them with me.

Q. Now, the net result of these improvements, shortening the line 40 miles, cutting out a great deal of curvature, and reducing the grades, all together, made it possible to operate the same amount of tonnage more easily; that is true, isn't it? assuming your tonnage remained just the same.

7083

A. Yes, I can say that.

Q. It made it possible to operate and carry that amount of tonnage faster, assuming the tonnage remained the same?

A. That would be governed by the volume of traffic.

Q. I say, assuming it remained the same as it was in 1900, the time that you began; that is true, isn't it?

A. In 1904 I began.

Q. At the time these improvements began. You have been testifying about the movement of traffic as far back as 1900?

A. Yes.

Q. Over my objection, you remember.

A. Yes.

Q. Now would you not answer my question in the affirmative?

(The question was read.)

A. From what I have been told, not what I know, I would not care to operate the road under any conditions as it was operated in 1900.

Q. You mean it was in such bad physical condition?

A. Bad physical condition. And I believe the rate of speed was unjustified even under good conditions.

Q. You know Mr. Burt, don't you?

A. Yes.

Q. He is a railroad man of at least as large experience as yourself, isn't he?

A. Yes.

Q. And the road was operated under his direction at that time?

A. Yes.

Q. And you knew Mr. Harriman in his lifetime?

A. Yes.

Q. He was chairman of the executive committee of the road, at that time, was he not?

A. Yes.

7084 Q. The same as he was under your administration?

A. Yes.

Q. Those two gentlemen together had charge, final direction, of the movement of business?

A. Yes.

Q. And you regarded them as reasonably capable men, both of them, did you not?

A. I should hate to reflect on them.

Q. I should think you would.

A. I might question their judgment.

Q. Now, in addition to shortening your line 40 miles, reducing the curvature, reducing the grades,—all of which would tend to make it more easy to operate traffic, as I understand you—you have put in several hundred miles of double track?

A. Yes.

Q. Is that any aid to you in operating your road?

A. Unfortunately, all the improvements we have made, up to a recent date, have been more than absorbed by the increase in traffic.

Q. I am coming to that increase in traffic in a moment. I am merely inquiring whether the construction of the amount of double track that you have described is, in and of itself, an aid in the movement of business over the road?

A. It is an aid, because that was its purpose. But it is insufficient.

Q. I understand. I am coming to that a little later; but I am taking this up step by step.

A. Well, I came to it a long time ago.

Q. Now, the mileage of double track you mentioned as being on the Kansas division between Topeka and Kansas City, did you not?

A. Yes.

Q. Is it not a fact that the Rock Island uses your track between Topeka and Kansas City?

A. It does.

Q. Then you are not simply double tracking for the sake of your own business there, but because you have leased the right

7085 to another company to run over your road; that is so, isn't it?

A. We would have been glad to have had them off, if we could have got them off.

Q. I say that the reason for the double-tracking there was the fact that you were leasing out your road to another company and getting rental for it, in part at least?

A. I do not think that was the primary purpose. The primary purpose was to provide the facilities for both companies, and ours was suffering as much as they were.

Q. That is, you both suffered in trying to move that traffic over a single track road?

A. Yes.

Q. Now, the Rock Island is the main line to Denver and to Colorado Springs, is it not?

A. From the southeast.

Q. Heavy Rock Island traffic over that line there, isn't there?

A. At times.

Q. And heavy traffic over the Union Pacific lines west of Topeka?

A. Yes.

Q. So that double-tracking was necessary both for your sake and your lessee's?

A. The same principle we are following on the main line with ourselves.

Q. Have you done any more double-tracking on the Kansas division?

A. No; for the reason that we are building a cross-line from Menoken to the vicinity of Marysville, which connects with the St. Joseph & Grand Island and then intersects our main line at Grand Island, shortening the distance from Kansas City to Cheyenne, by that route, about 120 miles as against the Denver-Cheyenne route.

Q. You are operating in that route the St. Joseph & Grand Island as part of your system, are you?

A. Not at all.

7086 Q. You use their tracks?

A. Under a contract.

Q. You own a lot of stock in the Grand Island?

A. That I would not know.

Q. You do know that the Union Pacific controls the organization of it, don't you?

A. It is supposed to; it is not controlled by me.

Q. It is not under your direction, you mean?

A. No.

Q. But as a member of the Union Pacific organization, you understand very well, don't you, that that line is controlled by the Union Pacific organization?

A. Well, I understand it is friendly.

Q. Enough of the stock was purchased from Mr. Harriman by the Union Pacific to control it, wasn't there?

A. That I never heard.

Mr. DUNNE. If you don't know, just say so.

WITNESS. I don't know.

Q. How many miles of the St. Joseph & Grand Island do you use on that cut-off?

A. About 130 or 140 miles.

Q. How much new line do you have to build to make connection?

A. 70.

Q. That is from what point on the Kansas City line?

A. Menoken; the first station west of Topeka: to a connection of the St. Joseph & Grand Island near Marysville, Kansas.

Q. And that will take the Kansas City traffic moving to northerly points, like San Francisco or Portland, off the line between Topeka and Denver, and will send it through by Grand Island; it will shorten the route?

A. It can be so diverted.

Q. It would be the natural thing to do, wouldn't it, if it makes your line a hundred and some odd miles shorter, as you said?

7087 A. It would in some particulars, and others it might not; because we might desire to operate by the old line—must operate certain trains, and it would be economy to fill up those particular trains with stuff requiring slower service.

Q. Most of the double-tracking that you have done is in Nebraska, isn't it?

A. No.

Q. Is there more in Wyoming?

A. We have done nearly as much in Wyoming as we have done in Nebraska.

Q. How much have you done in Nebraska?

A. 203 miles.

Q. Is that right out from Omaha, or is it in sections?

A. It is continuous.

Q. From Omaha?

A. Yes. We had double track from Council Bluffs to Gilmore, and from Lane to Watson's Ranch: and instead of completing this double track between Gilmore and Lane parallel with the old track, at a cost of about $275,000, we built the Lane cut-off, at a cost of $3,800,000, and avoided double-tracking the old line, because it shortened the mileage and it removed water difficulties that we were subject to almost annually under the old location.

Q. And it made you an easy grade?

A. Substantially the same grade, or nearly the same grade.

Q. I understood Mr. Kruttschnitt to say it reduced the grade.

A. Well, it is some better in some places.

Q. It reduced the mileage very considerably?

A. Yes. It did more than that: it reduced our earnings; it made us accept less money for our freight rates locally, and passenger rates, locally, by shortening the distance, than we could have maintained by the old line.

Q. That is, your local rates in Nebraska?

7088 A. Based on the rate per mile.

Q. In Nebraska?

A. Yes.

Q. That only applied to your Nebraska rates?

A. Well, that is considerable.

Q. It did not decrease the transcontinental rates?

A. It did not affect those, as I understand it; but it did affect our local rates in Nebraska. We paid the premium of an investment of $3,800,000 for the purpose of reducing our rates.

Q. I suppose you are very sorry you made the investment?

A. I have had some regrets on the rate question.

Q. How much did you save by the cut-off?

A. It is about 23 miles. We saved a fraction less than 10 miles, in the distance.

Q. In how many?

A. In 15.

Q. You saved 10 miles in 15?

A. We saved nearly 10 miles, in the building of 11.96 miles, as I recall the figures. It is a queer mathematical proposition.

Q. You say, then, that you saved 10 miles' haul by building between 11 and 12 miles of road?

A. We shortened our distance by the new line.

Q. To the extent of about 10 miles, by building only about 12 miles of road, or less than 12 miles, is that right?

A. The old line was 23.9 miles from Omaha to Lane. The new line is 15 miles; saving 8.9 miles in distance.

Q. You built 15 miles and saved 8.9; that is correct, is it?

A. No, because part of that 15 was already constructed. We built less than that.

Q. How much did you build?

A. About 11 miles.

Q. And in building 11 saved 8.9 miles?

A. Yes.

Q. In addition to building this double track, you have built
7089 a large number of passing tracks, haven't you?

A. Yes.

Q. Have you here the statistics of those passing tracks? You did not give them in answer to Mr. Loomis, as I recall it.

A. These do not represent all of the passing tracks, but represent the more important items, and I should have so stated, in giving this testimony of some of the physical characteristics of our betterments. There was much more money expended, but these were the larger quantities. There were 89 passing tracks.

Q. I find that you did state that—89 passing tracks. How long were those passing tracks, as a rule?

A. They vary from 4,000 to 4,500 feet.

Q. Is not the effect of long passing tracks like that, to enable meeting trains to be handled much more speedily than they can be on the shorter switches at stations?

A. Well, we could not handle them at all on the shorter.

Q. That is, your trains are long now, and you have to have these long passing tracks in order to enable one train to pass another?

A. Yes.

Q. And is it not a fact that by reason of those passing tracks, one of the freights, as a rule, does not have to stop at all at the meeting point?

A. That is not our experience.

Q. It is your experience that they both regularly stop?

A. Our experience is that the passenger trains today are interfering with our movement of freight trains; they are the ones that are affecting our service.

Q. The passenger trains do not stop at those passing tracks?

A. No, of course not. That is why the freight train stops.

Q. I suppose it does happen at times, on your road, that freight trains meet, doesn't it? It has to be done, hasn't it?

7090 A. I have frequently seen 5 or 6 freight trains at one station, waiting to get out. Under the time-card rules, the first train leaves as soon as the passenger train arrives; the next freight train cannot leave until 10 minutes after; the following train does not leave until 10 minutes later; the next one 10 minutes later. The result is that the sixth train does not leave that sidetrack until an hour after the first train has left. That is the condition caused by the operation of one passenger train past that station.

Q. Let us eliminate the question of passenger trains for a moment.

A. I wish I could.

Q. I suppose there are times when two freight trains meet on your road, when there isn't any passenger train in the vicinity; isn't that so, or doesn't that ever happen?

A. Yes, it does happen; but there is always a passenger train darned close by.

Q. Assuming that two freights should by some chance happen to meet, and one of them is on one of these long passing tracks; it is not essential that the other stop, is it?

A. These passing tracks have been provided for the purpose of facilitating the movement of that class of traffic.

Q. That is what I thought. That is what I was trying to prove by you.

A. And that is what we are doing. And if we did not have them, we would not be moving any freight trains. But when we have more freight trains than we really have passing tracks, as in many instances is the case, then our troubles commence seriously.

Q. I have no doubt you have lots of trouble from your extreme prosperity. But what I was getting at is the fact that your long passing tracks in many cases enable one of the freight trains to move on without stopping, while the other one is sidetracked on the

7091 passing track. Now isn't that true?

A. It might at that station, but it would stop at the next one.

Q. Well, would you be kind enough to tell me whether my statement is correct? I am not talking about the next station; I am not speaking about passenger trains; I am not talking about congested condition at all; I am asking you this question: If it is not frequently the case that a freight train is on one of these long passing tracks when another freight train comes along from the opposite direction and runs right along through without stopping? Now, can't you answer that?

A. No; I do not think that is frequently the case. I think something generally happens that ties up both those trains at that station, because, in the long years that I have been operating (and I have got lots more to learn), I never have seen anywhere such a surplusage of passenger trains as we have on the Union Pacific Railroad. And it is simply difficult and dangerous, from an operating man's standpoint, to have so much of that service, because it is accelerated, and these freight trains must get out of the way of these trains. There is a time-card rule that does not permit them to take any chances, because we cannot stand accidents as we once stood them. That is the matter we are constantly trying to eliminate, and we are acting in safety lines. If we disregard the safety features and operate these trains in a more reckless manner, we could do some things that we do not do now, but some of its officers might be in jail.

Q. That is a very interesting statement, but it has not much to do with the question I asked. Do I understand, then, that you desire to be understood as saying that it is not at all a frequent thing
7092 for freight trains to meet, one of them being on one of the long passing tracks and the other running through without stopping? That is not a frequent thing, as I understand you, on your road?

A. Oh, yes; that occurs.

Q. That is all I asked you.

A. It must occur.

An adjournment was then taken until the morning of Wednesday, February 23, 1910, at 10:30 o'clock.

7093 ROOM 720, CUSTOM HOUSE, NEW YORK CITY,
Wednesday, February 23, 1910.

The hearing was resumed before the Special Examiner, Hon. Sylvester G. Williams, at the above time and place.

Present: On behalf of the Complainant, Mr. C. A. Severance, Mr. G. E. Husted; on behalf of the Defendants, Mr. Peter F. Dunne and Mr. N. H. Loomis.

A. L. MOHLER,

recalled.

By Mr. LOOMIS:

Q. Mr. Mohler, a little confusion has arisen in regard to the average miles per car per day, all classes of freight service, January, 1907, to February, 1909, on account of the form in which your memorandum was prepared. I wish to ask you now whether or not the average miles per car per day that you referred to was intended to include the various roads as a whole rather than particular portions of those roads between specific points?

A. The Union Pacific as an individual property.

Q. Not including the Oregon Short Line, nor the O. R. & N.?
A. No. And the other lines as individual properties.
Q. For instance, the Atchison, Topeka & Santa Fe as a whole?
A. Yes.
Q. The rate of movement per car per day on that road being 26.7 miles, is that correct?
A. Yes.
Q. Does that include all of the lines east of Albuquerque?
A. Yes.
Q. The Great Northern figures, 21.5, would include all of that road; is that right?
A. Yes.
Q. How is it as to the Northern Pacific, 21.4 miles?
A. The same.
7094 Q. The Chicago, Rock Island & Pacific, 23.3 miles.
A. The same.
Q. The C. B. & Q., 29.6 miles?
A. The same.
Q. The Chicago, Milwaukee & St. Paul, 24.7 miles?
A. The same.
Q. The Pennsylvania lines, 23.9 miles?
A. The same.
Q. The New York Central lines, 25.2 miles?
A. The same.

Cross-examination resumed by Mr. SEVERANCE:

Q. This table or chart from which you have just been testifying in answer to Mr. Loomis, I believe you said was made up by some railway traffic bureau?
A. The American Railway Association Bureau.
Q. Where is the headquarters of that bureau?
A. In Chicago and New York.
Q. Where was this made up, in Chicago or New York?
A. I think it was made up in New York.
Q. By whom?
A. By Mr. A. Hale.
Q. Where is the office of that association in New York?
A. I do not believe I could tell you from memory.
Mr. LOOMIS. Is it 24 Park Place?
WITNESS. 24 Park Place.
Q. What class of statistics are furnished to that association by the railroads?
A. The auditor of each railroad furnishes the mileage and the cars, upon a uniform form furnished by the association to all the railroads that belong to it; and then the information is compiled systematically by Mr. Hale and reported to all the railroads who are members of that association. The details of it Mr. Hale
7095 would be more familiar with than any one else, of course.

Q. Does your road, for instance, furnish Mr. Hale the actual movement of each individual car?

A. It furnishes him with the total movement for the month. The information is furnished monthly, under a printed form that he sends out to each railroad.

Q. You have just been interrogated by Mr. Loomis with reference to the average miles per car per day, which you state is 41 1/2, on certain portions, at least, of the Union Pacific system. In what form does that information reach Mr. Hale from your office?

A. We have a printed form (which unfortunately I have not with me) in which he has us report to him the number of cars owned, the mileage made, and other incidental information with reference thereto, which enables him to compile it and prepare the averages for each particular road. Then he publishes it in a large monthly sheet, quite an elaborate sheet, giving the information collectively of all roads members of that association.

Q. You furnish him a statement showing the number of cars owned by the Union Pacific Railroad Company?

A. Yes, sir; whether revenue or bad order—all of it.

Q. All the cars that you own?

A. All the freight cars that we own.

Q. That is one item. Second, you furnish him with a statement showing the entire movement of all cars over your line?

A. The car mileage movement for the month, and train mileage.

Q. Of all cars moved over the line?

A. All freight cars.

Q. Whether they are your own or belong to other lines?

A. Whether foreign or otherwise.

Q. Taking those two together, dividing one into the other he gets what you call the average miles per car per day of the
7096 cars owned by the Union Pacific, doesn't he?

A. No, not of all the cars moved, foreign or Union Pacific.

Q. Explain how he does do it. How do you get this result of 41 1/2?

A. By the total cars handled, both foreign and Union Pacific or Harriman lines. The Harriman lines are treated as system cars. On those we pay a mileage rate per day when used; and on all other foreign cars, we pay a per diem rate when used. So the total cars moved and the mileage made by those cars—the train mileage—is the manner in which results are reached for all the cars moved, whether foreign or owned by the Union Pacific Railroad.

Q. Do I understand you, then, that these figures do not take into account in any respect, as a separate matter, the cars that are owned by the Union Pacific?

A. No, sir, they take in the whole equipment.

Q. These figures are made up on the basis of the cars actually moved over the line, irrespective of what cars they are?

A. Yes.

Q. And the number of miles in a day that all those cars are moved; and one is divided into the other, and, as a result, you get the 41 1/2 miles; is that correct?

A. Yes.

Q. You are sure of that, are you?

A. That is the general principle of it. I don't know that I could go into the details of it fully.

Q. I have only stated the general principles. I have not attempted to ask you how you figure or how you divide, or anything of that sort. But that is the way you get this result, is it?

A. That is the way Mr. Hale gets the result for all the companies, as I understand. Whatever basis he uses for making
7097 one company's records, he uses for all of them.

Q. In furnishing these reports to Mr. Hale, do you include in one lump all of the cars on the whole system, or do you divide them among the different portions of the system?

A. They are all taken in the entirety.

Q. So he has no access to any information except as to the aggregate?

A. Not unless he desires it or calls for it.

Q. I mean he does not have it in preparing this paper?

A. No.

Q. If that is the case, how could he have made up the statement that he has here? I will read you the first three items to which you testified: "U. P., Co. B. Ogden" —I don't know what Co. B. means. Mr. Loomis, Council Bluffs.

Q. "U. P., Co. B. Ogden:" and then, under the heading the average miles per car per day, all classes of freight service, January, 1907, to February, 1909, 11.5. The next item, "U. P. Council Bluffs to Denver, 11.5:" and the next "U. P., Ogden to Council Bluffs, Green fruit, 11.5." Now, if he only had the aggregate of all the movement, and did not have it cut up into parts, how could he make these separate computations?

A. Mr. Hale did not make those. Unfortunately, as it develops now, to make a comparison of the main lines of these various companies, we did that ourselves. We assumed that comparison of the main line of all these roads representing a uniform mileage for all their systems, would be the way for us to make that up. Had we simply said "Santa Fe" or "the Union Pacific," or any other road, so many miles per day, that other information would have been eliminated.

7098 Q. Then I understand you that Mr. Hale did not get up this thing at all, but this was gotten up by your own people?

A. Mr. Hale got up the 41½ miles.

Q. What did he get that up from?

A. From the records furnished him of the lines.

Q. I understand you, then, that taking Mr. Hale's figures that were handed back to you after making some computations on figures handed him, you made up in your office these three items?

A. Yes.

Q. And I understand you that from the records in your office you ascertained that the green fruit movement from Ogden to Council Bluffs, in so far as the average miles per car per day that were made, were just the same as the movement of general freight from Council Bluffs to Ogden, to wit, 11½ miles per day?

A. No.

Q. That is what it says here.

A. Well, that is misleading.

Q. That is just what I thought—that it was misleading.

A. Because it was simply put there as a picture and it is not the right kind of a picture to have, Mr. Severance.

Q. That is just what I thought.

A. But the mileage for the whole system is 11½ miles per day, just the same, on the whole road.

Mr. Cotton. Do you mean the Union Pacific System, or Union Pacific Railroad proper? Do you mean including the O. R. & N.?

Witness. I do not mean that. I mean the Union Pacific Railroad alone, east of Ogden.

Q. Then, as I understand it, we are to disregard entirely the 70[illegible] "picture" as you call it, on this schedule or chart, so far as it covers the Union Pacific?

A. Disregard the territory defined; but the mileage is correct for the Union Pacific and for the other lines mentioned.

Q. Does this 11½ miles include the movement of cars on your branches?

A. Certainly.

Q. On all branches?

A. Yes.

Q. As well as the through business from Kansas City and Council Bluffs to Ogden?

A. Everything.

Q. It includes every class of business on every branch, and every bit of the line east of Ogden?

A. It does.

Q. I notice that you have another column here, to which counsel did not call your attention, on this schedule; and that is the average speed in miles per hour of merchandise trains. I wish you would read into the record the list of the average speed in miles per hour of merchandise trains, of all the roads shown on this schedule.

A. "Average speed in miles per hour, of merchandise trains. Union Pacific from Council Bluffs to Ogden, 9.9 miles. Union Pacific, Council Bluffs to Denver, 11.5 miles. Union Pacific from Ogden to Council Bluffs, green fruit, 12.4 miles." Now, do you desire me to——

Q. I want you to read the whole list, right straight through; the whole line.

A. It is misleading, now.

Q. We will see whether it is or not.

A. Santa Fe, Chicago to Albuquerque 12.3. Santa Fe, Chicago to Kansas City, 14.4. Santa Fe, Kansas City to Denver, 14.4. Great Northern, St. Paul to Seattle, 11.8. Northern Pacific, St. Paul to Portland, 14.4. Chicago, Rock Island & Pacific, Chicago to Denver, 14.2. Chicago, Burlington & Quincy, Chicago to Denver, 14.4. Chicago, Milwaukee & St. Paul, Chicago to Seattle, 12.4. Chicago,
7100 Milwaukee & St. Paul, St. Paul to Seattle, 12.3. Chicago, Milwaukee & St. Paul, Chicago to Omaha, 16.4. Chicago, Milwaukee & St. Paul, Chicago to Kansas City, 16.6. Chicago, Milwaukee & St. Paul, Chicago to St. Paul, 12.8. Pennsylvania Railroad, New York to Chicago, 16.2. Pennsylvania Railroad, New York to St. Louis, 18.3. Pennsylvania Railroad, Chicago to New York, 15.9, dairy products. New York Central, New York to Chicago, 17.5. New York Central, New York to St. Louis, 20.4. New York Central, Chicago to New York, dairy products, 17.

Q. You have stated that your road is a single track road from Ogden to Council Bluffs, with the exception of four hundred odd miles of double track which you described; that is true?

A. Yes.

Q. Is the Atchison, Topeka & Santa Fe also a single track from Chicago to Albuquerque?

A. That I would not know.

Q. You don't know whether it is or not?

A. No, I don't know to what extent they are double-tracked.

Q. Is the Atchison, Topeka & Santa Fe single or double-track from Chicago to Kansas City?

A. I think not the entire distance, but nearly so.

Q. Is the Atchison, Topeka & Santa Fe, from Kansas City to Denver, a double-track road?

A. I cannot answer that question.

Q. Here is a road I think you know something about—the Great Northern. Is that a double-track road from St. Paul to Seattle?

A. I have been away from there for 18 years.

Q. You were operating in connection with the Great Northern when you were on the O. R. & N.?

A. Well, yes.

Q. Don't you know as a matter of fact that the Great Northern, except as it uses the Northern Pacific track for a little way up the Mississippi River from St. Paul, is a single track road?

7101 A. I would not so regard it, for the reason that, when I was there, they had a line known as the Fergus Falls division, running up to Crookston and Grand Forks and Moorehead; they had another line, running by the Breckenridge division running to Fargo and Moorehead and Grand Forks; they had another line running by way of the Breckenridge division, from Casselton to Larimore; and I understand they have since extended the Breckenridge division to some point in the vicinity of Devil's Lake.

Q. Then, assuming they have these lines east of Devil's Lake, it is a single track line from there to the coast, isn't it?

A. I am not able to say what they have beyond there, because I have not been over their line for a great many years.

Q. Is the Northern Pacific a double or single track line from St. Paul to Portland?

A. I think not the entire distance, from rumor. I think they have quite a number of patches of double track, from what I have been told, out in the mountains. I don't know, only as it is rumored.

Q. Is the Rock Island from Chicago to Denver a double or single track?

A. It is double track, I think, from Chicago to some point near Des Moines.

Q. But from there to Denver single track?

A. Single track I think.

Q. Is the C. B. & Q. double track from Chicago to Denver or any point west of the Mississippi River?

A. Double track to Lincoln, you might say.

Q. All the way from Chicago?

A. Substantially so, as I understand it.

Q. All across Iowa?

7102 A. I think very little of it left: some left.

Q. There is some left, isn't there?

A. Very little left.

Q. Mr. Kruttschnitt testified that the weakest spot in the chain was the thing that governed in the movement of traffic. So if there was some of it left, not double track, that would weaken the ability to handle traffic expeditiously, wouldn't it?

A. It would not aid it.

Q. It would weaken it, to be frank?

A. It is objectionable, very.

Q. It would render it less capable of moving traffic expeditiously than though the whole line was double track, wouldn't it?

A. It makes a tunnel of it. When you have a double track up to a given point and to a throat, then of course the stuff gets into the throat, and it checks the movement of the stuff, unless the trains can be so arranged as to overcome it. Sometimes that can be done, but not always.

Q. Mr. Kruttschnitt was speaking of the disability of the Union Pacific, not being entirely double-track. I suppose you agree with him? You heard his testimony, didn't you, in that regard,—about the fact that you were not aided so much as you would be if the whole system was double-track?

A. Yes, I agree with him, except that there is a very marked difference in grade of the single track of the Burlington Railroad and the Union Pacific.

Q. I am not asking you about that. I am asking you as a general proposition if it is not true that a road may be quite largely double-tracked and still, quite a large portion of it being a single track road, you do not get the full benefit of your double track?

A. No, we do not.

7103 Q. No road does, does it?

A. No.

Q. Now, the Chicago, Milwaukee & St. Paul, from Chicago to Seattle, how much of that is double-tracked?

A. I cannot tell you.

Q. You know, don't you, that the line from the Missouri River to Puget Sound is a newly constructed single-track line and has only been opened for traffic within the last few months?

A. From the Missouri River?

Q. Yes, from the Missouri River, in South Dakota, to Puget Sound?

A. No. I know of it only by the press reports. I know nothing personally.

Q. You know it is a new road?

A. I know it is a new line; but I supposed its route was largely by the way of St. Paul and Minneapolis.

Q. Undoubtedly. But the Hastings & Dakota division runs from St. Paul and Minneapolis?

A. To the Pacific coast.

Q. I am speaking of the transcontinental line to Seattle. You understand that to be a single track road, don't you?

A. I think it is most of the way, after it leaves Minnesota territory.

Q. And the Chicago, Milwaukee & St. Paul, from Chicago to Omaha, is that single or double track?

A. That is double track considerable of the way.

Q. Not all the way is it?

A. Not all the way. I cannot tell you how much.

Q. The Chicago, Milwaukee & St. Paul, from Kansas City to Chicago is a single line isn't it?

A. No.

Q. How much of it is double track?

A. I think the Kansas City and Omaha line diverges at
7104 some common point in Iowa, near Marion, I should say.

Q. Single track from there on?

A. Single track west.

Q. The next one is the Pennsylvania, and it is already in evidence. That is a four track road, as I understand it?

A. Yes.

Q. And the Pennsylvania, New York to St. Louis, is part of the way a four track line and part of the way two, is it not?

A. I am not able to answer that.

Q. Now, you would say, in your opinion, wouldn't you, that the Union Pacific between Council Bluffs and Ogden has as large a percentage of double-track as its competitors, like the Great Northern and Northern Pacific and the Atchison?

A. From where?

Q. From the Missouri River west, treating St. Paul as a Missouri River point—as it is in railroad rate making.

A. No, I can't say that as to the Atchison, because I don't know. What are the other two roads?

Q. The Great Northern and Northern Pacific?

A. I should say that with the lines I have mentioned, of the Great Northern, they would have at least 400 miles of double-track, by building those separate branches. As to the Northern Pacific, I don't know. I have not been over those northern lines since 1901.

Q. Now, you speak of the 400 miles on the Great Northern. That is spread out over a total mileage of about 2,000 miles, isn't it, from St. Paul to Seattle?

A. Somewhere about that.

Q. About 2,000, in round figures?

A. Yes.

Q. The 400 miles that you testified to—something like 400 miles, as I recall it—is spread out over nearly a thousand miles from Ogden to Council Bluffs; that is true, isn't it?

A. Yes, sir.

7105 Q. So that your percentage of double-tracking is clearly much greater than that on the Great Northern?

A. Yes, I will assume that.

Q. It appears by these figures that you have just read into the record, that the slowest time made by any merchandise train in the United States, so far as developed by these various lines east and west that you have read, is on the Union Pacific, from Council Bluffs to Ogden, 9.9 miles? That is true, isn't it?

A. Yes.

Q. And that the next slowest time made as shown by this table, is on the Union Pacific between Council Bluffs and Denver—11½ miles per hour; that is true, isn't it?

A. At that time.

Q. And as against that speed of 9.9 miles from Council Bluffs to Ogden, the Santa Fe from Chicago to Albuquerque makes 12.3, which is about 25 per cent better speed, isn't it?

A. I have not figured it out.

Q. 9.9 as against 12.3.

A. The figures show.

Q. If it was 10 as against 12½, it would be exactly 25 per cent. Now, on your green fruit business from Ogden to Council Bluffs, your time is 12.4, according to this table, which is only 1/10th of a mile faster than the average speed as stated in the head lines of merchandise trains on the Santa Fe between Chicago and Albuquerque; is slower than the Santa Fe between Chicago and Kansas City, or between Kansas City and Denver; slower than the Northern Pacific from St. Paul to Portland; slower than the Rock Island from Chicago to Denver; slower than the C. B. & Q. from Chicago to Denver; only the same identical time as made by the Mil-

7106 waukee over its new line to Seattle—clear across. Now, fruit trains, you have testified, made the run in 80 hours from Ogden to Council Bluffs?

A. I did.

Q. That is a class of traffic that is preferred by your line over ordinary merchandise, is it not, to the extent of at least 20 hours and 45 minutes between those points?

A. It is an improvement in time, yes.

Q. That is what I mean by "preferred"?

A. Yes.

Q. And in spite of that fact, in moving these green fruit trains, you handle them as slowly over this line of yours as these merchandise trains are handled over other lines, and much slower than merchandise trains are handled over most of the other lines on this table? Isn't that true?

A. We handle them at that rate of speed by an agreed arrangement that is satisfactory to the shippers, and serves the purpose and is as good a time as we can make with the volume of traffic we handle on that line.

Q. With whom does this agreement exist? I would like to find out about that.

A. The agreement of 80 hours is part of an arrangement with the shippers of California fruit, so that they can have and depend upon uniform deliveries at the eastern terminals, and in 15 cars or more. They come to us very frequently in a less number of cars than that, but we undertake to give even the smaller amount of business that movement, if it is possible to do so.

Q. Will you kindly state with whom that agreement was made, and when it was made?

A. We only received this information from our western connections, Mr. Severance.

Q. When did you get it?

A. That has been in effect for seven or eight or ten months.

7107 Q. What is the time you now make from Los Angeles to Chicago, with fruit trains?

A. I don't know. We have simply assigned to us our proportion of the time.

Q. With what shippers in California was this arrangement made?

A. I would not know, Mr. Severance, except ——

Q. From whom did you get the information?

A. The Southern Pacific people.

Q. What Southern Pacific representative transmitted that information to you?

A. I think you will find that would come from Mr. McCormick, assistant director of traffic.

Q. He is also assistant director of traffic of the Union Pacific, isn't he?

A. Yes, but the business has its initiation on the Southern Pacific Railroad.

Q. Also initiated on the San Pedro, isn't it?

A. Yes.

Q. Which runs in connection with your line?

A. Yes. The same time applies on that route.

Q. And is the same time consumed in handling business when it moves by the Southern Pacific, by Sacramento, and delivered to you at Ogden, that is consumed when it moves by the San Pedro from Los Angeles to Salt Lake and delivered to you at Ogden?

A. We make no distinction with any connection west of Ogden, and it is the same time from Ogden to Council Bluffs, with us.

Q. Do you know whether the time is the same with them?

A. I could not say as to that.

Q. Do you know whether this deal with the shippers, that you speak of, refers only to the time that was made by the Union Pacific—or does it refer to the entire time that would be consumed in moving the traffic to Chicago?

7108 A. I have the impression it is the entire time.

Q. They would not care how much time you took, would they, if the entire movement was within a limited time?

A. Yes, I think they would; because we have got to make our adjustment so that the stuff arrives in Chicago at a uniform hour for delivery in the morning.

Q. And you say that you don't know what the total time consumed is?

A. No, sir, I do not know.

Q. In moving fruit trains?

A. I do not.

Q. Before you had this arrangement that you made seven or eight or ten months ago, by which you put in the 80-hour schedule, what was your time on fruit trains from Ogden to Council Bluffs?

A. That fluctuated at different times. We ran the stuff more or less as best we could.

Q. Didn't you have a regular schedule?

A. We had an attempted regular schedule.

Q. What was it?

A. Sometimes as high as ninety hours; sometimes a little less.

Q. When you came to the road, your schedule was considerably less than 90 hours wasn't it—in 1904?

A. I don't believe we had any schedule then.

Q. Do you remember of there coming to your knowledge the fact that shortly after the San Pedro road was opened, that line, in connection with the Burlington and the Denver & Rio Grande, put in a fruit train service of about six and a half days from Los Angeles to Chicago?

A. I have no recollection of it.

Q. You don't know about that?

A. No, sir.

Q. You didn't know the fact that that schedule was put in, and was taken out, and that protests were immediately made

7109 against it by the other lines?

A. I did not.

Q. How does your time on fruit from Los Angeles to Chicago compare with the Santa Fe?

A. I cannot tell you.

Q. You know nothing about that at all?

A. No, sir; I simply have an assignment of time.

Q. You are simply told you can have 80 hours to move that traffic?

A. Yes, sir.

Q. And that is all you know about it?

A. That is all I know about it. That is what I have to do.

Q. And if I want to find out about this contract and whether it embraced all the lines, or embraced all the shippers, or anything else, I will have to get that from somebody else, will I?

A. Yes, sir.

Q. All right. Have you had any statistics made up, to show what the average speed was, on the Union Pacific merchandise trains, previous to the time you put in this slow service of 100 hours and 45 minutes? You gave some isolated cases the other day; but I want to know if you have got a general average made up, and, if so, I would like to see the figures.

Mr. LOOMIS. What general average?

Mr. SEVERANCE. Of the time made between Council Bluffs and Ogden, previous to the time of putting in this slow service of 9.9 miles an hour.

A. I don't believe I have that, Mr. Severance.

Q. All right. Perhaps I will advert to that a little later, in another connection. In giving a statement in answer to Mr. Loomis, of the new construction you had made, you spoke of certain new stock yards that had been built at Green River, Rawlins, Laramie, North Platte, Grand Island, etc.,—feeding yards; and you stated that they were better yards than any similar yards west of Chicago. Did I correctly understand you to so state?

7110

A. You did.

Q. You have been in the yards on the other lines?

A. Feeding yards west of Chicago.

Q. On the Santa Fe?

A. No; I was speaking of our operating connections.

Q. What are your operating connections?

A. The Milwaukee and the Northwestern.

Q. You mean that your yards are better than the Milwaukee and the Northwestern yards?

A. I think our collection of yards in the aggregate is better than they are, west; I think we have more of them.

Q. But you do not undertake to compare your yards with those of your competitors; only with those of your connections east of Omaha?

A. I think our facilities are just as complete, but may not have as many rooms in them.

Q. Your answer the other day gave the impression, to me, at least, that you intended to say that your feeding yards surpassed those of

the Santa Fe, for instance, and the other lines in the west. Your language was rather general.

A. Possibly I was misled, in making that remark, by the expressions made by the committee who represented the Stock Growers' Association of Wyoming.

Q. Yes; you spoke of their being very well pleased with them.

A. They examined these yards in advance, and were pleased with the extensive arrangements we were making to take care of that particular traffic.

Q. Now, you have a very large stock traffic on your line, haven't you?

A. Yes.

7111 Q. Where does it originate—in Wyoming and the West, and in Nebraska?

A. It originates in all the States.

Q. You have a large cattle and sheep business moving east from eastern Oregon, brought in by the Short Line?

A. From Idaho territory.

Q. Eastern Oregon and Idaho both?

A. Yes.

Q. That is delivered to you at Granger?

A. Granger.

Q. You also have a large traffic of that kind originating on your own line in Wyoming, have you not?

A. Considerable.

Q. Both cattle and sheep?

A. Yes.

Q. You have a large traffic of that kind originating in Nebraska?

A. Well, that is local, largely, for the South Omaha yards.

Q. The Nebraska business is mostly local?

A. Yes, largely cattle——

Q. In order to handle this large traffic that is offered you in the West, and which is moving to Chicago or even to the Missouri River, it is essential that you have feeding yards, isn't it?

A. It is now, under the law.

Q. Well, the law is less rigorous than it was, in that regard, isn't it?

A. Didn't have any at one time.

Q. How many years ago did they first have a law requiring you to unload and water and feed cattle every 28 hours?

A. We had a law that was not enforced.

Q. How long ago was that law passed?

A. I cannot tell you, but I do not think we paid a great deal of attention to that law prior to 1900.

Q. From 1900 on, did you sit up and pay attention?

A. We paid considerable attention after 1904.

7112 Q. About two years ago, or perhaps only a year ago, the law was changed, so that cattle can be kept in the cars 36 hours, wasn't it?

A. Yes.

Q. Therefore, the law itself is not wholly to blame, is it, for the establishment of these feeding yards?

A. We didn't have them before, to anything like the extent, nor located so near to each other. And when we studied the effect of this law, it made it necessary for us to put in additional facilities and enlarge the facilities we had, to provide against this contingency; because the law is pretty severe, when there is any failure now on the part of the transportation line.

Q. You don't object to that, do you? It is a very humane and merciful law, isn't it?

A. I am not contesting it at all.

Q. And you don't object to running your road according to law, so far as you can, do you?

A. Certainly not, and we are spending money to do so.

Q. And you are willing to do that, aren't you—comply with the law.

A. Certainly. We are generous.

Q. You regard it as generous, do you, to comply with the laws of your country?

A. Generous, and humane, and loyal.

Q. There is a great deal of generosity in the country, then, isn't there—if everybody is generous and obeys the law?

A. We are simply saturated with it.

Q. You said you had built 58 new stockyards. As a matter of fact, a large number of those were built to replace old worn-out yards, weren't they?

A. No, there were a great many new ones built. This is only a portion of it. I could give you a much more elaborate statement than this.

Q. It is a fact, isn't it, that your road is not singular in
7113 the fact that it has to maintain stockyards. All the roads in the west that handle live stock have to have stockyards, don't they? They have to have little yards at the country stations where the stock is taken on; they have to have feeding yards if the length of the haul is such as to render it necessary under the law; isn't that true?

A. We were deficient in a great many of these necessities that other roads, who were not in the hands of a receiver, had been able to provide and had been providing in days gone by. The result was that the expenses and the necessities for improvements tremendously doubled up on us in a short period, so that we had to do more rapidly what many other people had done before, or could do, slower.

Q. What that means is simply this: That you were deficient in certain facilities that you needed, and you built them?

A. Yes. And therefore, as long as we built them, we were less open to criticism than if we had not built them.

Q. That must be so. With $100,000,000 to invest in the stocks of other railroads, you certainly would have been criticized very much, wouldn't you, if you had not taken care of having reasonable facilities on your road?

A. Unfortunately, I do not own much of it.

Q. You said that you built a lot of new section houses. All railroads maintain section houses today, in the west, do they not?

A. Well, we had a lot of ours in box cars.

Q. Then all you were doing was getting yourselves up on a parity with your competitors, was it?

A. It was a little more than that. We were trying to make life more pleasant for the people who are living in the jack-rabbit country.

7114 Q. You haven't done anything that is comparable with the new hotels built along the Santa Fe and operated by the Harvey people, have you?

A. No. We are doing some. We have two under construction.

Q. Those hotels will make things rather pleasant for people in the jack-rabbit country, won't they?—those Santa Fe hotels, or don't you know anything about the Santa Fe?

A. I don't know anything about their line. I have not been over their line in a great many years. I have had too much engaging my own attention, and troubles at home.

Q. You stated, among other items of disability, that since the receivership you built a station at Omaha, at a cost of $406,178. What roads use that station?

A. The Wabash, Illinois Central, Milwaukee, Northwestern, and Rock Island.

Q. You remember, don't you, that after some little litigation the Great Western also got in?

A. The Great Western. I have a distinct recollection of that.

Q. How many lines does that make that use that station?

A. Seven.

Q. Seven different lines, besides the Union Pacific, or including the Union Pacific?

Mr. LOOMIS. The Missouri Pacific, too?

WITNESS. Yes. Eight.

Q. On what basis do they come in there?

A. They pay the interest charge on the property, and the maintenance on a car basis.

Q. Then, in reality, the Union Pacific, instead of having an investment of $406,000 there, so far as carrying charges are concerned have an investment of one-eighth of that?

7115 A. It owns the property.

Q. And it gets seven-eighths of the expense of carrying it, from the other roads?

A. Yes; and we would like to spend three-quarters of a million dollars now to make further improvements.

Q. And it will get seven-eighths of that from the other roads, too, won't it?

A. Yes; whatever its ratio is.

Q. In addition to that, the county of Douglas and the city of Omaha gave a big bonus to the old Union Pacific to have the station built there, didn't they?

A. They could afford to.

Q. They did, didn't they?

A. Yes. We have a pay roll of three million dollars a year there now, of the employees.

Q. Well, I say they did it?

A. Yes. I am just bringing out these facts in connection with your remarks about the $406,000 in connection with the construction of viaducts and other things.

Q. You also spoke about some new terminals built at Sharon Springs and Hugo, Colorado, occasioned by the 16-hour law. State briefly what that law is.

A. The train crews are not permitted to be in service more than 16 continuous hours without 8 hours rest. The divisions were so long—160 miles or more—that they could not be covered within the time without laying up the crew and power at intermediate points. The same was also true of Sterling, Colorado. Three additional terminals were located as the result of that law. And, while I said that the cost was $120,000 to $130,000, I find that in the case of one of them it was $170,000.

Q. That expenditure was occasioned by the fact that you could not operate in the way you had formerly and keep your men on duty so long a time as you had formerly?

7116 A. No; for the reason that the law had changed the terminals. These terminals had been in existence for a great many years, and were so far apart that the provisions of the new law could not be complied with. So we had to put in intermediate terminals to comply with the law.

Q. That is what I meant by my question. You had, previous to the passage of this law, kept your men on duty longer hours, if necessary, in order to make these more distant terminals?

A. Yes.

Q. And to comply with the law you had to shorten up your divisions, to put it in a word?

A. Yes.

Q. Other railroads in the country have to do the same thing?

A. I don't know how extensively. I suppose all of them, to some extent.

Q. Well, as a matter of common railroad knowledge, you know, don't you, that other lines did have to do that same thing?

A. Yes.

Q. Shorten up their terminals, so as to comply with this law, which was passed in the interest of public safety?

A. You see, when we had a larger business, these terminals were more readily covered, even within the 16 hours, than they can be with the additional meeting and passing of trains; so it was an absolute necessity, the shortening of terminals, to comply with the law.

Q. You understand that your road is not singular in that regard, but other lines had to do the same thing?

A. It was one of our added expenses for improvements.

Q. I say your road is not singular; you are not the only road that had to do it?

A. No; it is not the only one, but how extensively on the others I don't know.

7117 Q. You spoke about putting in some coaling stations of a modern type. Other railroads are putting in coaling stations of a modern type, aren't they?

A. I think so. I don't know whether they are doing it as extensively as we are.

Q. You don't know whether they are or not?

A. No. I know we are doing it very extensively.

Q. It cheapens the operation, doesn't it? It saves time?

A. It saves time. It is important as a time-saver.

Q. That helps, doesn't it?

A. It helps, except that it takes money to do it originally.

Q. It takes money to lay down a railroad track; but you do it for the sake of getting profit out of running cars?

A. Yes. We have to do it in order to meet the conditions, but there was a time when we did not have the traffic and could not afford to do it.

Q. But, fortunately, you have the traffic now, and have the rates, and are able to do it?

A. Yes.

Q. And other roads are in the same fix, as far as you know?

A. Yes.

Q. You also spoke of the fact that you had built seven new roundhouses, at Green River, Evanston, Laramie and other places, and expected to build some more. Do not all railroads have to maintain roundhouses?

A. They do, but I think many roads have built roundhouses in the past fifteen or twenty years to a very much greater extent than we have. We have some things on our main line that are now twenty-eight years old, and the engines have grown greatly in length on the Union Pacific, so that the roundhouse is of little value
7118 to house the power. And this comes at a time when we need our money for the development of our second track and track facilities. It simply has piled in on us a tremendous outlay within a short time.

Q. When did you begin building these new roundhouses?

A. About two years ago. We were giving the renewing of our main line preference, which was extensively done, and putting down second track, on the theory that a second track was good for twelve months in the year, and with the roundhouses we suffered inconvenience only four or five months in the year.

Q. Then it was because of the fact that up to two years ago you were rather hard up for money that you did not build these roundhouses?

A. No.

Q. You said you were giving the preference to other things?

A. Sure.

Q. That is, you did not have money enough to do both; is that right?

A. There was a limit to men and material during those prosperous times. I was authorized to spend much more money than I could possibly spend, because I could not get the men and the material.

Q. That is what I wanted to develop. I thought the difficulty was in getting men. You had plenty of money, hadn't you?

A. As far as I know.

Q. How many years ago did you first take up the question of building these new roundhouses?

A. This matter has been up continuously since I have been there.

Q. Since 1904?

A. Yes. And pressing. Money has gone into other improvements that we thought were more necessary at that time to move the business.

7119 Q. And you bought new track scales?

A. Yes.

Q. You say your old scales were out of date?

A. Yes.

Q. That was a renewal item, wasn't it?

A. In some instances; the majority of them not.

Q. They were a necessity to handle the business, weren't they?

A. Under the state and federal laws now.

Q. And other lines found the same necessity, didn't they?

A. Probably had a good many of them installed long ago.

Q. You spoke about some icing stations that you had built at different places, for icing fruit in transit. You have a very large fruit traffic from Southern California, haven't you?

A. We have now, yes.

Q. And that moves both over the San Pedro, when that is in operation—I understand it is washed out now, but when it is in operation it moves over the San Pedro and over the Southern Pacific to Ogden, doesn't it?

A. And the Oregon Short Line.

Q. I had in mind California fruits chiefly. You have a large fruit traffic from Oregon, Idaho and Washington, don't you? That moves in on the Short Line?

A. Yes.

Q. But you also have a large fruit traffic from Southern California, that comes in over the San Pedro and the Southern Pacific, don't you?

A. Yes, considerable.

Q. And it is to take care of that fruit traffic, which is destined to points in the east, that you built these icing houses?

A. Yes.

Q. And you make a charge against the shipper for icing, don't you?

A. That is a traffic matter, Mr. Severance.

7120 Q. Oh, Mr. Moler, you are the vice-president. You know, don't you, that there is a charge for icing? I don't ask you the amount of it.

A. No. I will say this, that as far as the traffic is concerned it is as absolutely divorced from me as it can possibly be. Those questions are handled entirely by the traffic department—and I am delighted they are, too—so that I have kept entirely out of that question.

Q. Do I understand you to say, as an experienced railroad man, that you do not know that the Union Pacific Railroad, if it ices a fruit car, gets paid for doing it?

A. I think they are in some instances; I do not think in all, but you see that business is being handled directly under the instructions of the Pacific Fruit Express. They are doing all the icing and making all the collections, and we are simply a transportation line.

Q. Now, let us see about that. The Pacific Fruit Express is a company that is owned jointly by the Union Pacific and the Southern Pacific, isn't it?

A. Yes.

Q. One half of the stock being owned by each?

A. Yes.

Q. And the Pacific Fruit Express owns the refrigerator cars that operate over the Southern Pacific and the Union Pacific lines?

A. Yes.

Q. And also over the San Pedro line, so-called?

A. Yes.

Q. And the Pacific Fruit Express cars are iced at these icing stations along the line of the Union Pacific?

A. The icing houses are leased to the Pacific Fruit Express.

Q. That is what I was trying to get at. Then you built the

7121 icing houses and you leased them to the Pacific Fruit Express?

A. Yes.

Q. And you get a rental amounting to a fair interest on your investment, or something of that sort?

A. Yes.

Q. A satisfactory rental to yourself?

A. Usually 4 per cent, I think.

Q. And they maintain them?

A. We haven't got to that point yet with them.

Q. Whatever the arrangement is, it is mutually satisfactory to you and to your sub-company?

A. Yes.

Q. And they handle the business?

A. Yes.

Q. So that you do not know whether they charge for icing or not?

A. I would not have any knowledge of that.

Q. No personal knowledge?

A. No.

Q. But you pretty well understand they do, don't you?

A. I am suspicious.

Q. Yes. It is universal, isn't it, to charge for icing in addition to the regular tariff?

A. No; it is past finding out what a traffic man will do. I used to be one.

Q. But you have forgotten all of those things, I suppose, since you stepped over to the other side of the table?

A. I hope so.

Q. If we should be fortunate enough to get on the stand one of your traffic men, do you think we would find out about this icing matter?

A. No; I think I would become a minister of the gospel then.

Mr. DUNNE. By the way, you did have his traffic man on—Mr. Munroe; you ought to remember him.

7122 Mr. SEVERANCE. But he didn't say anything about icing.

Mr. DUNNE. Neither did you.

Mr. SEVERANCE. But Mr. Mohler hadn't called attention to the fact that you had done something startling in building icing houses at that time.

Q. You said you put in some bells at crossings. Isn't that quite a usual thing at railroad crossings?

A. It hadn't been done to any great extent by our people, but since we have been running so many trains, a great many of these cities have been passing ordinances or enforcing old ones as to slowing up our speed through the cities, and protecting the more dangerous crossings by highway bells.

Q. That is done for the sake of preventing running over people on the street, isn't it?

A. Yes.

Q. You do not make very bitter complaint about having to spend $25,000 on that sort of thing, do you?

A. No; we only want credit for it.

Q. For preserving the public life?

A. Yes, sir.

Q. That is, for refraining from running over the public you want to be credited with it?

A. They are certainly more to us alive in passenger service than they are the other way.

Q. That is the point of view of a passenger man?

A. Not all all, because we are delighted to entertain them.

Q. I didn't believe you felt that way, Mr. Mohler. You spoke about the Lane cut-off and the policy of eliminating highway crossings and also said that you had put in a lot of new crossings at various places, with interlocking plants. You spoke of Council

7123 Bluffs, Omaha, Fremont, Central City and various others. Did the lines that you crossed join you in this expense?

A. Unfortunately, in a great many instances where we were the senior company—and this is old history: a great many of these crossings had been made in the dark of the moon, and we were not able to carry out the policy of the junior company assuming the expense of its installation; so that a considerable burden of these crossing installations fell upon our company, which it ought not to have done under the present practice, and under the practice I have been educated to.

Q. The usual practice is for the new company to make the crossing—that is, for the junior company to pay the expense of the installation?

A. Yes.

Q. And then the maintenance is divided, isn't it?

A. That was not the case in hardly any of these instances.

Q. I say that is usually the case?

A. That is usually the case, but that was not the case in these instances.

Q. You spoke about interlocking plants at various points. Will you look at your data and see whether the other lines bore part of the expense?

A. That I can't tell you from memorandum or from any records I have here.

Q. You have no records here to show?

A. No. We have more, however, of those interlocking crossings than I have given you. I gave you simply some of the principal ones.

Q. I understand. And as to whether you had to pay the expense of putting them in, in individual cases, or how the expense of maintaining them was borne, you do not know?

A. I do not know, because they are divided on a basis of
7124 function, and I think only one case has occurred since I have come there, that is the Fremont crossing where we did not have to participate in the expense either for the entire installation or half of it, or some proportion.

Q. It is an advantage to both lines to have an interlocking plant so as not to have to stop at the crossing, isn't it?

A. It is our belief that it is a life-saver.

Q. A time-saver, too?

A. Yes. And the principal purpose of our putting in those plants—many of them we could have delayed for some time longer, and there are still some that are not in that I have been negotiating with other companies to put in, who are not willing to participate in the expense, but we believe in connection with our system of block signals and protection that this is one of the necessities as well as the other. And that is why we are——

Q. Isn't it a fact that the railroads of the country are practically uniform in that belief—that as fast as they can do it, they ought to install interlocking plants?

A. I think they believe that, but they do not all do it.

Q. A great many of them do it, don't they?

A. It is done more on the eastern lines than on the western lines.

Q. Isn't it a fact that practically no new crossings are now made without an interlocking plant?

A. No, I don't think so.

Q. It is very unusual, isn't it, for one to go in without an interlocking plant?

A. No; I think there are a great many cases where they have kind of a makeshift arrangement instead of a modern one.

7125 Q. That might be, but it is with the intention of superseding it with an interlocking plant?

A. Yes, and I think very wisely so.

Q. You testified with reference to your equipment, that since 1900 you had commenced using steel underframes until you had gotten up to 46.35 per cent of all cars, and you had also begun in 1906 building steel passenger cars. The tendency of all roads is in the same direction, isn't it?

A. It is now; it wasn't then.

Q. Wasn't it in 1906?

A. I don't think so. I think we were one of the initial companies in America that started building steel coaches.

Q. But they are doing it now?

A. Yes.

Q. You only built seven that year, according to your statement?

A. Well, they were experimental.

Q. But it is the usual thing now, isn't it, for roads that can in any way afford it?

A. I think it is becoming more general. There are, however, a great many of the large important lines that I think have no steel equipment, unless it may be Pullman equipment which they may get into their service.

Q. Yes, that is true, because they are using their old equipment, have not replaced it, but the new passenger equipment that is being built is quite largely being built of that material, isn't it?

A. I would not say that generally, from what I know.

Q. On the important lines?

A. I think there may be more, of course, than I know, but I do not believe they have been going into steel equipment very heavily until the last year or two, or the last year particularly. There have

7126 been a great many features in connection with that character of equipment that have made it experimental, such as the heating of those cars in the winter season.

Q. You spoke of the size of freight cars having increased, in 1901 the ruling size being 30 tons and now largely 50-ton cars. That has been the tendency of all railroads, hasn't it, to increase the size of their equipment?

A. Yes; but they are not all building 50-ton cars. Our cars are all being built 50 tons, and some roads I think are still building 40 tons.

Q. I think that is true, undoubtedly, but the general tendency has been for larger cars because of economy in operation?

A. Oh, it is a necessity for the shipper and a necessity for the transportation lines.

Q. It is more economical, isn't it? When you use 50-ton cars you haul less cars to the train than you do when you use 30-tons cars?

A. Yes. For example, if we were today handling what the Union Pacific originally had, a capacity of 20,000 lbs. or 10 tons, and were to undertake to handle a train on the basis of the present engine, we probably never would get out of one terminal until we had gotten into another.

Q. It would make a very long train?

A. Yes.

Q. That is a fact that has been recognized by all the principal railroads in the country, isn't it?

A. Oh, it is progressive transportation.

Q. And that progressive transportation has included better roadway, heavier power and heavier equipment?

A. Heavier bridges, heavier rails, heavier everything.

7127 Q. That is, you might say, universal over the country, with the strong lines, I mean?

A. When they are able to.

Q. Now, you stated that you had put in many new dining cars, observation cars, and had greatly increased your facilities for passenger service, and the character of your equipment?

A. Yes.

Q. You run as good an Overland Limited train now as you did three or four years ago?

A. I think we run as good.

Q. Three or four years ago didn't you have a barber shop and bathroom and smoker up ahead as well as the observation car in the rear, and haven't you taken that off?

A. We have taken off the barber shop because it did not seem to be necessary.

Q. Seemed to be more economical to take it off the train, didn't it?

A. Not at all. We put the same car in the rear and gave the entire car for that purpose.

Q. You had an observation car in the rear, too, hadn't you?

A. No, sir.

Q. You think you had no observation car on the Overland Limited when you had a barber shop up in front?

A. I don't recall any.

Q. Is that your best recollection?

A. That is, in 1904, yes.

Q. Well, I mean up to the time you took that car off in front.

A. Yes, my recollection is we only had a compartment car, and that was up in front.

Q. Do you run compartment cars on the Overland Limited?

A. I understand so.

Q. A solid compartment car?

A. Separate staterooms, you mean?

7128 Q. Yes.

A. Yes, we have them.

Q. How long ago did you put it on?

A. When we installed electric lighting service between Chicago and San Francisco.

Q. You have solid compartment cars on the Overland Limited?

A. What do you mean?

Q. I mean, a car that is composed solely of little staterooms.

A. Yes, we did have. I can't say now whether we have them or not. The Pullman Company change their service from time to time.

Q. The Santa Fe Limited have one on theirs, don't they?

A. Wait a minute now. I can't tell you definitely about that now.

Q. If you had such a car, and if you have taken it off, and if you have taken off the car with the barber shop and bathroom for the convenience of your patrons on these long journeys, do you still think you have improved the character of your Overland train?

A. This is the condition today: I find we have no compartment car. We have, on the Overland Limited, a dynamo-baggage car, a diner, a sleeper with 10 sections and with two staterooms; another sleeper of 10 sections and two staterooms; a sleeper of 12 sections. (All of them have drawing rooms, of course, in addition.) Another sleeper of 12 sections and drawing room; another sleeper of 10 sections and drawing room; and a composite observation car.

Q. That is, the smoking car at the observation end?

A. Entirely for that purpose, and for no other.

Q. For smoking and other forms of refreshment——

A. Yes.

Q. ——which moves under a manifest?

A. Under the head of beer.

7129 Q. Then I am right about it, that you have taken off that compartment car, am I not?

A. Yes; but there are some cars there that have more than the ordinary number of staterooms, that are now in that service.

Q. Since the San Pedro road was put out of commission, what have you done about that Los Angeles Limited train? Do you run it around the other way, or have you taken it off?

A. We run the equipment through. I can't tell you whether there is much or any of that business going by way of Sacramento or not.

Q. I mean, the train still runs, does it, or does it run the other way?

A. No, we don't run that; we have discontinued that train.

Q. That was what I wondered, whether you had or not.

A. Yes. It will be reinstated as soon as the line is opened up.

Q. That was one of the trains included in the number of passenger trains, you stated?

A. Yes, but I qualified my statement that it had been suspended.
Q. I did not understand that qualification.
A. That it had suspended until the line was re-opened.
Q. Do you know anything about the comparative time you make by the Overland Limited now and in 1900?
A. No, sir.
Q. Who would know about that? Mr. Kruttschnitt didn't know.
A. We have transportation men who will testify a little later.
Q. They know about that, do they?
A. Yes.

Q. Some of the traffic men know about that, or is it operat-
7130 ing men?

A. I don't know; I couldn't speak as to the traffic men.
Q. You will have somebody here that will know about that, will you?
A. Yes.
Q. You haven't looked it up yourself?
A. No.
Q. Have you looked it up, so that you are able to tell, how much slower your passenger service is, if it is slower, between Omaha and Salt Lake City or Ogden, the end of your own line, than it was in 1900 and 1901?
A. I am not able to answer that question, but they can answer it.
Q. Somebody else will know about that?
A. Yes.
Q. You stated by years the passenger train mileage, beginning with 1900, up to 1909. It ran from 2,597,450 in 1900, up to 4,400,949. Have you any statistics to show how many passengers were hauled by the trains represented by that train mileage?
A. No, I have not, but I did make, in the month of December, an estimate of our passenger service, and I found that it had earned the same rate per train mile.
Q. You don't know anything about traffic, now; you don't know anything about earnings, remember that.
A. Yes.
Q. I am just asking you about the number of passengers carried, without referring to the revenue, because that is a traffic matter. I would not expect you to know about revenue, as you have so frequently stated.
A. Thank you.
Q. But how many passengers did you carry during any one of those years? Can you tell?
A. I can't tell. I haven't that information with me here.
Q. Can that information be procured?
A. Very readily.

Mr. SEVERANCE. I would like to have that, if you please,
7131 Mr. Mohler. I would like to have information as to the number of passengers carried in each of these years from 1900

to 1909, that is covered by these statistics as to the passenger train mileage.

WITNESS. I don't know, Mr. Severance (that is the comptroller's work) whether that information can be furnished for that period. It can be furnished for the present and for quite a number of years back.

Mr. SEVERANCE. Well, as far back as you can give it.

Mr. DUNNE. Can that information be derived from the annual reports, Mr. Severance?

Mr. SEVERANCE. I am not sure that it can. If it can, that is all that is necessary.

Q. Now, the second set of statistics that you gave was the average number of passenger trains one mile one day?

A. Yes.

Q. That ran from 7.31 up to 12.28 in 1909. What was it for 1908?

A. 15.37.

Q. How did that happen to drop off?

A. That is affected by large conventions, the Shriners, Democratic Convention, by the Elks, by the Woodmen, the Yukon Exposition. A number of those things will account for that fluctuation.

Q. That brought up that one year very high?

A. Yes. They may bring it up again.

Q. That was an unusual year, 1908, for the reason you have stated.

A. No, I don't know that it was. We are open to that special service all the time.

Q. If you will look at your list you will see that it jumped from 11.70 in 1907 up to 15.37, and then dropped back to 12.28.

A. Yes.

7132 Q. If you will look at that whole list you will see it is an unusual year.

A. It is unusual, but it is plenty high enough now.

Q. 12.28 is high?

A. Yes; it is very high.

Q. Now, that passenger train one mile one day covers what class of trains?

A. Covers the straight passenger trains.

Q. All passenger trains?

A. On the main line.

Q. That is what I mean—all passenger trains between Council Bluffs and Ogden.

A. Yes.

Q. Local or otherwise?

A. Yes.

Q. You have a number of trains that do not go clear through, of course, on that line?

A. Not very many.

Q. Haven't you some?

A. Yes.

Q. They run out of Omaha?

A. Yes.

Q. Do you have some running out of Cheyenne that do not go clear through?

A. No.

Q. Do you have any running out of Ogden that do not go clear through?

A. Yes.

Q. How many?

A. One.

Q. How many out of Omaha that do not go clear through?

A. One goes to Valley, one goes to Grand Island and one to North Platte, and some go to Julesburg, and the rest go through.

Q. And those are all included in this statement?

A. By the different districts, yes.

Q. You stated the other day, in reference to the manifest freight trains, that in 1901 there were thirty-four articles, which you enumerated, which went in these fast freight trains, and in 1904

7133 113 articles were placed in the train of the same class?

A. Yes.

Q. Not as fast a train, but a train of the same class. I notice in your list of 34 articles you include, as the last item, mixed carloads of merchandise. What does that include, what kind of merchandise? General mechandise?

A. That means merchandise consigned to a number of different parties, to the same territory.

Q. It might be anything, then, under the general head of merchandise that moved in that car?

A. Yes. It is high-class stuff.

Q. As a matter of fact, the high-class stuff, as you call it, was pretty well covered by these 34 articles, wasn't it?

A. No, sir.

Q. I mean things that merchants are particularly anxious to get in a hurry.

A. Oh, no, we have a very large quantity of stuff there that we gave a much slower service on. I can state, if you would like to have me, why that list was enlarged.

Q. I would just as soon you would. We want to know the facts.

A. The traffic people insisted on making a more general movement of a large portion of the stuff offered rather than continue the practice of moving a small portion at a faster speed and a large portion at a slower speed, because if the Union Pacific service covered a large quantity of articles, it gave them very much less trouble, and less complaint was made as to the movement of the stuff. Therefore it was handled under a manifest system, while other stuff not included was left to move along without a manifest report, as best it could.

7134 Q. If you look at this list of 34 articles that you gave, which moved at the faster speed, would you not say that pretty well covers the ordinary articles that are sold in stores?

A. No, sir. As I understand, there are men here who will testify on this more completely, possibly, than I will be able to, because they were in the service at that time. The articles shown on the 34-list comprised those particular articles, while the 113-list comprised the articles under those headings and many more that would go into that category. These men can explain that more in detail and to your satisfaction.

Q. Traffic men explain that, do they?

A. No, the operating men explain that.

Q. But they can do that better than you can. I had better take it up with them, you think?

A. Yes. I think they will satisfy you.

Q. Now, you have given some figures as to the movement of these fast freight trains. You picked out certain days in 1900, 1901, 1902, and 1903, and showed that they moved late. Who picked out those days?

A. The superintendent of transportation.

Q. What is his name?

A. Mr. Lincoln.

Q. Is he here?

A. He is.

Q. Did he consult with you before picking them out?

A. I suggested to him that he pick out, regardless of what it would produce, three days in each of those months.

Q. Did you tell him not to take the same three days in the various months?

A. Tell him not to what?

7135 Q. Not to take the same three days in the same months of different years?

A. No; because there were some days there for which he told me he could not get the dispatcher's sheets to trace through; therefore he took the next nearest day.

Q. Do you know how it happens that in picking out these days he has taken, in practically every instance, not the same day or not the same days of the month in the different years, but different days; that is, instead of taking, for instance, June 1st in each year, or June 2nd, or June 10th, or June 20th, he has skipped around in almost every instance? Why was that, do you know?

A. He could testify to that.

Q. You don't know anything about it?

A. No.

Q. Do you happen to know how the trains ran on any of the other days in these months except the isolated days he has picked out here in some way or other?

A. No.

Q. Have you got any figures on them?

A. We can furnish them. I have no knowledge of that, but from my knowledge of the manner in which the traffic moves I have not any doubt but what that represents an average, and it represents a

very much better average than it will if you will let me take the winter months.

Mr. SEVERANCE. I would ask you, then, to be kind enough to have prepared a statement which will show the same information about the movement for the entire month of June in each of the years named and the entire month of October in each of the years named, so we will see what kind of results we get from a complete exposé, instead of these isolated days—not some days in each month of each year.

7136 Mr. LOOMIS. How long will that take?

WITNESS. Mr. Lincoln can say better than I.

Mr. LINCOLN. It will take from 30 to 45 days to work that up.

Mr. SEVERANCE. That will do very well.

Mr. LOOMIS. We will permit you to examine the records and work it up yourself.

Mr. SEVERANCE. I don't know but I will be willing to do that.

Mr. DUNNE. I think the record ought to show that those days were taken as representative and typical, and that the enumeration of a multitude of days would involve extreme labor and expense. Now let us be fair about this.

Mr. LOOMIS. I think the record shows that already, Mr. Dunne.

Mr. SEVERANCE. Mr. Dunne, I don't think I have been unfair about anything in this case, and you know I have not, or would know I have not if you had been in the case from the time it began.

Mr. DUNNE. You talk about isolated days. Your manner is somewhat disparaging.

Mr. SEVERANCE. I do not think much of these days, I will admit that.

Mr. DUNNE. I will argue that with you later.

Mr. SEVERANCE. All right. We won't quarrel about it. I will make the request and let it stand just as I have made it.

Mr. DUNNE. Mr. Loomis, haven't you answered Mr. Severance's request?

Mr. LOOMIS. Yes, I have answered it by saying we will submit to him the records if he will furnish clerks to make the compila-

7137 tion. I do not think we are under obligation to furnish clerks to work three or four months or a long period of time to get up the data he wishes. The records are open for his inspection, and he can make such extracts from them as he sees fit at any time.

Q. You stated on your direct examination that you are as a rule making your time under this present schedule of 100 hours and 45 minutes. Did I so understand you?

A. I think we are substantially making it now, and have been for quite a little while.

Q. How long have you been making it?

A. I can't tell you from the records.

Q. Were you making it a year ago?

A. No, sir.

Q. Were you coming anywhere near making it a year ago?

A. No.

Q. Give me your best judgment as to how long ago you commenced to make it.

A. During this year. We hadn't much inducement to make a through time in 1906 and 1907, with the inability of our western connections to take the property from us, and for a large portion of that period having our terminals congested, at one time nearly 25 miles of new second track in Wyoming occupied by cars held for delivery to the Southern Pacific Railroad, on account of the facilities of San Francisco and Oakland having been destroyed by the earthquake.

Q. Now, that is very interesting, but it is not an answer to the question. You said you were making it fairly well now, and I asked you how long you had been doing it. How long ago did you begin to make the time?

A. Oh, I think we have been doing that for five or six months pretty generally.

Q. About what time were you making a year ago with that train?

7138 A. That would be in February, 1909?

Q. Yes. Make it a little later, April or May, 1909.

A. I can't tell you. I can give you all that information in detail.

Q. You can give it?

A. Yes.

Q. I would like to have it. I would like to have the information as to the time you were making in April and May last with that 100 hour and 45 minute train?

A. Will we be at liberty to show any reasons for delay?

Q. You did not show any reasons for delay in the case of these other figures about the train, when it had a faster schedule.

A. Which one do you mean?

Q. The old train, with the 58-hour schedule. You gave the cold facts.

A. I think we can give you some information on that if you desire it.

Mr. LOOMIS. You will be permitted to give any information you wish.

Mr. SEVERANCE. Undoubtedly. I am not asking for it. I am asking for the fact as to how they moved.

Q. How long would it take to get those statistics for April and May of last year?

A. Mr. Lincoln can say.

Mr. LOOMIS. It relates to the one train, does it?

Mr. SEVERANCE. Yes, to this 100 hour and 45 minute train. The reason I asked him is because Mr. McCarthy testified at Salt Lake City that you did not make your time with that train and that your usual time was something like a week between the River and Salt Lake.

WITNESS. Who is Mr. McCarty?

7139 Mr. SEVERANCE. He was formerly the Union Pacific agent of Salt Lake and is now the traffic manager of the Salt Lake Hardware Company.

WITNESS. Was he in our service at that time?

Mr. SEVERANCE. No, sir, he was a mere patron, but he was in your service at the time of the 54-hour schedule, which he said was fairly well maintained. I would like, for purposes of comparison, to have that information.

Mr. LOOMIS. Which information is that?

Mr. SEVERANCE. About the movement of the present train—last April and May. Or if it is too much trouble to get it up for two months, say May alone. I make the request for May.

Q. Did that train run in sections, as a rule—that 100-hour train?

A. Very frequently.

Q. When it ran in sections did the sections run close together?

A. As nearly as they could.

Q. They tried to keep on the same general time?

A. They could not do it, but they tried to.

Q. You were asked by Mr. Loomis this question: "Why was the time of your schedule trains, including No. 53, lengthened out in October, 1907?" You responded: "Because, after conferring with all of our operating officials, it was a matter of great concern to us, and some pride, and some dissatisfaction, that we were not able to make a printed schedule, and we tried to find a remedy. We first applied it a number of times in trying to force the business, to run the trains faster and to instill into the division officers and the men its necessity. All of that was gone over repeatedly, from week to

7140 week, and from month to month, without any apparent results. We then decided that it was very much better for us to utilize the efficiency of the power, handle more cars to the train, operate less trains on the road, and cover the ground more regularly and systematically—which has substantially been done, barring the unusual conditions which occur in the operation of property since that time." Now you say you had these conferences. Was Mr. Kruttschnitt a party to any of those conferences?

A. No, sir.

Q. Was he advised of those conferences?

A. No, sir.

Q. He knew nothing about them? Is that the fact?

A. Why, he would know about it when the time table was published. He was conversant with the fact that the train was not making the time and was continually urging on us to make that time, and we were continually urging the men to make it, and I think they realized in the Chicago office after a while that there were some things that were impossible.

Q. Then, as I understand it, this train was lengthened out by you without consultation with Mr. Kruttschnitt, as a mere operating matter?

A. Yes.

Q. When Mr. Kruttschnitt was on the stand last Friday he was asked the same question that was put to you: "Why was the schedule lengthened in 1907?" and here is his answer: "To meet the conditions that confronted us at that time. We had this panic; we could not reduce expenses, we could not increase revenues; and the problem that confronted the management of roads was how to get efficient management without either increasing revenues or decreasing
7141 expenses—a pretty tough problem." Mr. Kruttschnitt seemed to think that that was done for financial reasons.

A. Wasn't that a general statement rather than one——

Q. No, that had reference to lengthening the time of the train in 1907—the same question which was put to you, and which you stated was decided by you as an operating matter, without conference with Mr. Kruttschnitt.

A. We found the necessity for it. It may have been different elsewhere, but with us we had to do it.

Q. Then, do I understand you to testify that Mr. Kruttschnitt is mistaken if he intended to convey by that answer the fact that it was done for economical reasons, because of the panic?

A. I would not want to be asked to explain Mr. Kruttschnitt's views. I am only able to explain my own action.

Q. Then, the matter of economy in operation had nothing to do with it so far as you are concerned?

A. Necessity.

Q. Only necessity?

A. Yes.

Q. In order to move the traffic?

A. Yes.

Q. And the matter of economy did not figure in it?

A. No, sir, not with us.

Q. And Mr. Kruttschnitt was not consulted until after it had been done?

A. No.

Q. You stated in answer to Mr. Loomis that in order to move freight in 54 hours between Council Bluffs and Ogden it would be necessary to sidetrack passenger trains, sidetrack mail trains, sidetrack live stock, side track fruit, sidetrack manifest trains, and take
some risks in operation. Do you wish that answer to stand
7142 just as you gave it, without any further explanation or modification?

A. Read that over again, please.

Q. The question was: "Would it be possible to operate a freight train between Council Bluffs and Ogden in 54 hours, at the present time?

"A. Yes, sir.

"Q. In what manner?

"A. By sidetracking passenger trains, sidetracking mail trains, sidetracking live stock, sidetracking fruit, sidetracking manifest trains, and taking some risks in operation."

A. We would sidestrack a great many of those trains. We would not sidetrack all of them.

Q. How is that?

A. We would sidestrack a great many of those trains, but not all of them.

Q. That is what I thought. You would not have to sidestrack passenger trains, would you?

A. Yes, I think we would, some of them.

Q. Would you sidestrack mail trains?

A. We would try not to. We have done it.

Q. Your operating speed would be 18½ miles an hour, you said—your average operating speed, including stops?

A. That would be with very little interference, but with the number of trains that are moving over that district now the speed would be very much greater between terminals than 18½ miles an hour to recover time.

Q. I am just reading from your testimony—average speed about 18½ miles.

A. Yes.

Q. What is the average speed of the Overland Limited between Omaha and Ogden?

A. 29.9 miles per hour.

Q. You would not think, then, you would sidetrack that in
7143 order to move freight trains at 18½ miles per hour, would you?

A. That train frequently runs from 70 to 80 miles an hour, to make up time from its connections.

Q. The answer is not responsive. I mean sidetrack the Overland. You would not include that as one of the trains you would have to sidetrack, mentioned in your other answer?

A. Sidetrack for what?

Q. For the 54-hour freight train.

A. No; because they are both going in the same direction.

Q. Not necessarily, are they?

A. Why, sure; freight trains westbound and No. 1 westbound—the Overland Limited.

Q. The Overland Limited comes east, doesn't it?

A. There would be times, if you were near a terminal, when the despatcher, if he desired to get that train into the Ogden terminal on time, and the passenger train was on time from the West, would probably sidetrack the passenger train to let the freight train by.

Q. You would not expect him to do that as a regular thing, would you?

A. It has been done a great many times.

Q. Undoubtedly it has been done a great many times, but that would not be usual, would it?

A. Why, yes. You know this train-service business is one that I am up with every day and every hour, and the volume of traffic cannot be governed by any set paper rules; it has got to be governed by the conditions, and those conditions are always changed by weather, by broken wheels, by drawbars pulled out, by late connections, and by so many things that you would not let me say to you that we would not or would sidetrack a passenger train, because we would be governed entirely by the conditions surrounding that particular
7144 train service at that time.

Q. Taking into consideration the speed that it is essential to make by the Overland Limited, the speed that it is essential to make with your mail train, which is faster than your Overland Limited, you would not be understood to say, would you, that in order to move a freight train or move freight at the speed they did go over your road years ago, before it was improved, when it was 40 miles longer, with higher grades and all that, you would sidetrack those fast limited and passenger and mail trains? You don't mean that by your answer, do you?

A. Yes, I would sidetrack them if necessary.

Q. Well, you don't think it would be necessary, do you?

A. I couldn't tell.

Q. Very good. We will let it go that way if you don't know.

A. It depends on the conditions.

(A recess was here taken until 2 o'clock p. m., at which time the witness was recalled and the cross-examination resumed, by Mr. Severance.)

Q. Mr. Mohler, at the time you made this change in the consist of your merchandise trains, your manifest trains, how did the articles carried in those fast freight trains compare with the articles carried in the fast freight trains of your competitors, or didn't you pay any attention to that?

A. I think we did pay some attention by adopting theirs and adding some additional of our own.

Q. Previous to 1904, when you made this addition of articles, running the number up from 34 to 113, the Atchison, the Den-
7145 ver & Rio Grande, and other western lines, had included a great many more articles in their fast freight trains, had they not, than you had in yours?

A. That I don't know.

Q. Well, you say you adopted some of theirs and added some of your own?

A. Yes.

Q. From which road did you adopt articles?

A. It would be probably all of the lines running through to Pacific coast points, both north and south.

Q. I will amend my question, and will say they had certain articles in their fast trains in addition to the ones you had?

A. Yes; but the operating officers would be better qualified as to the details of it all than I would be, because they prepared it.

Q. What are the names of those operating officers?

A. Mr. Park and Mr. Lincoln.

Q. You spoke of the fact that during 1906 and 1907 there was no special reason for you to try to make fast time to Ogden on account of the delays experienced from your connections, did you not?

A. I spoke of the California freight.

Q. Yes, but you said there was no special incentive (I think that is the way you expressed it) to make the time because of the delays on the Central Pacific.

A. Couldn't get rid of it.

Q. That was not true last year, at the time you were making such poor time, was it?

A. At what time?

Q. You said that a year ago now you were not making your time. There was no congestion on the Central Pacific a year ago now, was there?

A. In 1909?

Q. Yes; in the winter and spring of 1909.

7146 A. No. That was the increase in our own traffic which began to embarrass us then. Our own business had been growing constantly.

Q. And your facilities had been increasing constantly?

A. Not in ratio to the increase of the business.

Q. You did not keep pace with your growth in business?

A. We tried to, but we could not.

Q. When did you catch up?

A. We haven't caught up yet.

Q. I thought you were running your trains pretty well on time now.

A. We are getting more double track and will be in very superior position after we get in service what is now under construction, and it will enable us to accelerate time, and we will do so.

Q. Unless it chances that your traffic continues to increase?

A. It does not seem reasonable that it can increase very much more.

Q. The Pacific coast country is growing very rapidly, isn't it?

A. We will have double track to handle it.

Q. You reach the southern and northern coast?

A. Over one artery.

Q. You have now a line into Seattle?

A. Yes.

Q. That is something that you haven't had until very recently?

A. Yes.

Q. That will increase your tonnage, will it not?

A. I would not be able to say about that because I am not conversant with it, except I know that we have a line from Portland to Seattle and Tacoma.

Q. The purpose of that line is to carry traffic, isn't it?

A. Yes.

7147 Q. Transcontinental as well as other traffic?

A. But the traffic people are better able to answer that question than I.

Q. You do not wish to intrench on their prerogative?

A. No.

Q. You stated that train No. 53, when its schedule time was faster, had as many as three, four, five, or six sections, at times, as I understood you.

A. Since 1904.

Q. And how many sections did it have prior to that?

A. I don't know.

Q. You also stated, in answer to Mr. Loomis, that by making this lower schedule you were able to get the maximum of efficiency from your power?

A. Yes.

Q. The more you can load into a train, up to the maximum of efficiency of your locomotive, the more tonnage you can carry, the cheaper you can handle it; isn't that true?

A. That is a basic principle, but it was not the principle in the operation of this main line from Council Bluffs to Ogden.

Q. There seems to be some misunderstanding between you and Mr. Kruttschnitt about that, but we will leave that out. As a general proposition that is true, isn't it?

A. Certainly.

Q. That it is economical to load all you can into one train so long as you do not exceed the power of the engine?

A. Yes, and applied to other parts of the line.

Q. So that adding to the tonnage in the train and the lengthening of the time of the train, did make it cheaper to transport the traffic from Omaha to Ogden, per ton, didn't it?

A. Not by actual practice on that main line because we had not really been doing much better than on the schedule we are now making.

7148 Q. According to the figures that you gave you did a good deal better.

A. The printed schedule?

Q. No, your actual movement. You gave a selected lot of days on which the train moved, and out of the whole number that you gave there were only four days where the time consumed was longer than the present scale of 100 hours and 45 minutes, and there was one selected day, June 11, 1900, when there were only 58 hours and 10 minutes, and it ran from that up through the sixties and seventies and eighty, all of them (except those four days) faster than the schedule that you now publish.

A. Yes.

Q. In view of that wouldn't you want to modify that last answer?

A. That is, before 1904.

Q. Yes.

A. And since 1904—I gave the dates of the various changes in the schedule, and in 1906 and 1907 and portions of 1908 our schedule as actually made was considerably longer than 100 hours, in quite a number of cases.

Q. 1908 was the year after the panic of October, 1907. Did your traffic fall off during that year?

A. You will have to ask the traffic men about that.

Q. I am not talking about revenue; I am talking about the trains and tonnage that you have to handle. That is an operating question.

A. There was not a very material change on the main line. There was a considerable change on all the other portions and branches of the road.

Q. The traffic on your main line between Ogden and Council Bluffs fell off very little, didn't it?

A. Not a great deal. Of course it fluctuates with different
7149 months in the year. It is heavier in the fall months and certain other months than it is in other portions of the year. We do not have a uniform business every month.

Q. Oh, I understand that, no road does, but as a matter of fact you were not very much affected in the amount of tonnage you had to handle, were you?

A. Only in this way, that we had made up our mind it was possible to try to run something on some kind of schedule, and that was the basis of the change, and we were interfered with then in a great many cases, by little accidents that are incidental to operation and which occur daily.

Q. They occur on any railroad, don't they?

A. It depends on the volume of business. There is more chance for accidents on a heavy traffic road than there is on a light one.

Q. I was not asking you about the change in your time at all; I was merely directing your attention to the tonnage movement. That was not appreciably less, was it?

A. I have the statement that I have given you on that.

Q. Let us see it.

A. In 1908 our tons, one mile, were 7,718,508,000.

Q. That is the year ending June 30, 1908?

A. 1908.

Q. Fiscal year?

A. Yes.

Q. What is the next year?

A. In 1909 it was 8,064,882,000.

Q. What was it for the year ending June 30, 1907?

A. 8,111,666,457.

Q. Then, the falling off between the year ending June 30,
7150 1907, and June 30, 1908, was less than 400 million tons out of a total of about 8 billions?

A. Yes.

Q. Which would be a little under 5 per cent, roughly speaking, wouldn't it?

A. I suppose so. I will take your statement for that.

Q. You have stated, Mr. Mohler, that you lengthened this time in 1907. What time in 1907 did you make that change?

A. Early in October.

Q. Then, it was at least coincident with the panic, wasn't it? If the panic had nothing to do with it, as stated by Mr. Kruttschmitt, it was at least done at the time of the panic?

A. Yes, it was coincident.

Q. Just happened to be?

A. Yes, it was with us.

Q. Now, when the business let up, this 5 per cent, you did not deem that sufficient relief so you felt justified in restoring the time?

A. We were increasing our facilities by additional double track, which was giving us relief constantly.

Q. But I say although you were all the time increasing your facilities—you did in 1908—so you were in the position to move traffic faster, and although your traffic fell off 5 per cent, about 400 million tons, you did not deem it prudent to endeavor to restore your former faster schedule, although you were getting relief on both ends?

A. Not to that point.

Q. But you kept the same 100-hour schedule?

A. To that point.

Q. And you have since maintained it although you were all the time increasing your facilities?

A. We are not increasing our facilities during the winter months.

Q. Not this winter, perhaps.

A. No.

7151 Q. But you were during last summer?

A. Yes. We will give you ample service this summer.

Q. You stated that these green fruit trains also included at times certain live stock?

A. Small shipments of live stock.

Q. What is your time on solid live stock shipments from Granger to Omaha?

A. We aim to make 20 miles an hour from Granger to Omaha, through.

Q. Including stops?

A. Including stops.

Q. That is, you make 20 miles an hour?

A. Sometimes we do and sometimes we do not.

Q. Then, your live stock trains move much faster than your green fruit trains?

A. We try to move them faster because we have a 28-hour law.

Q. The roads in Iowa, taking stock to Chicago, move that stock almost at passenger train schedule, don't they?

A. I don't know.

Q. You don't know what their time is?

A. No, sir.

Q. You know nothing of the schedules on live stock that is shipped through to Chicago, unchanged at Omaha?

A. On no other road but ours.

Q. You don't know what the total time would be, then, from Granger through to Chicago?

A. No.

Q. You never paid any attention to that?

A. No, sir.

Q. And you know nothing about the time schedule made by the other roads carrying stock from the western country, like the Burlington, the Rock Island, or the Santa Fe?

A. I do not.

Q. You don't know anything about the comparative time?

A. No, sir.

Q. You spoke about the packing house trains three times a
7152 week. What time do they make to Ogden?

A. 93 hours.

Q. Do they run solid?

A. Yes.

Q. Do you carry packing house products in any other trains?

A. No, sir, don't aim to on that line.

Q. You were giving some of the reasons why it was more difficult to move traffic over the Union Pacific speedily than on some eastern lines, and among other things you instanced the fact that it was necessary in the first 550 miles to raise the train a mile and a quarter?

A. Yes.

Q. How many feet to the mile would that be?

A. About 43.

Q. 43 feet to the mile?

A. It is 43 per cent——

Q. It would be a very small part of 40, wouldn't it?

A. Yes. I am thinking of our maximum grade in that district, which is 43 feet.

Q. A mile and a quarter would be exactly 6600 feet, wouldn't it?

A. Yes. I thought I would be liberal.

Q. You divide that by 550 and you get 11 feet to the mile; is that right?

A. Yes.

Q. That is not a very fierce grade, is it?

A. It doesn't represent the actual grade.

Q. What is the highest grade you have between Council Bluffs and Julesburg?

A. 66 feet, I think.

Q. Where is it?

A. Out of Omaha.

Q. That is getting out of Omaha, isn't it?

A. Wait a minute and I will tell you exactly. (After referring to memorandum.) 66 feet.

Q. Where is that?

A. Between Omaha and Lane.

Q. What is your highest grade between Lane and Julesburg?

7153 A. I haven't got it that way; I have it to North Platte.

Q. What is it between Lane and North Platte?

A. 31.7.

Q. Where is that?

A. That is the maximum grade. I couldn't tell you where it is located. That is the maximum grade from Lane to Grand Island.

Q. What is the minimum, do you know?

A. That would be down around 20, probably 16. I have no profile book with me. I will get that information if you wish.

Q. How is it between Grand Island and North Platte?

A. 22.

Q. Maximum?

A. Maximum.

Q. What is your minimum?

A. I don't know.

Q. Between North Platte and Julesburg?

A. I haven't it that way. I have it to Sidney. 34 is the maximum.

Q. Between Sidney and what is your next point?

A. Cheyenne.

Q. What is it there?

A. 37.

Q. After you leave Lane, after you get out from the Missouri valley at Omaha, your highest grade to Cheyenne is 37 feet, is it? That is your highest maximum?

A. Yes, to Cheyenne.

Q. To Cheyenne—that is what I am talking about. How many miles is Cheyenne from Council Bluffs?

A. About 516.

Q. How far west do you commence climbing over Sherman Hill?

A. We commence making grade almost as soon as we leave Cheyenne.

Q. What is the altitude of Cheyenne, do you know?

A. No.

Q. Do you know how much of a climb you have to get to the summit after leaving Cheyenne?

A. Not from memory.

Q. Do you know your maximum grade west of Cheyenne,

7154 going over Sherman Hill, on your line?

A. 82 feet.

Q. Do you know your minimum there?

A. I think 43; I am not sure.

Q. For a long distance through Nebraska you follow the Platte River, don't you, in general?

A. Generally; not the entire distance, but considerable.

Q. I say a long distance.

A. I misunderstood you.

Q. And along the valley of the Platte you have a very low grade, almost a water grade, haven't you?

A. Yes.

Q. You spoke of having three hills to climb after leaving Cheyenne. The first is the Sherman Hill; the second is over the Continental Divide. How much of a climb do you have to get over the Continental Divide west of Laramie?

A. 43 feet.

Q. Is 43 feet your maximum?

A. Yes.

Q. What is your minimum between those points?

A. It is about the same thing.

Q. You mean it is 43 feet steady all the way?

A. On the climb part.

Q. How long a distance is that climb?

A. It runs from Rawlins—it is nearly that. We have some little drop-downs at Solon and Riner, and then we make the final climb to Creston.

Q. The Continental Divide is west of Laramie, isn't it?

A. Yes.

Q. West of Rawlins?

A. Yes.

Q. Is the Continental Divide between Rawlins and Creston?

A. No, sir.

Q. Where is it?

A. It is at Creston.

Q. Creston is the summit?

A. Yes.

Q. The climb, according to your folder, from Rawlins to
7155 Creston, is from 6741 to 7102 feet?

A. Yes.

Q. In a distance of 29 miles?

A. Yes.

Q. That is a distance of 361 feet that you have to raise the train—6,741 to 7,102—in 29 miles, which would be only an average of 13 feet to the mile. Arn't you mistaken about that being a steady climb of 43 feet to the mile?

A. I just stated the drop-down at Solon and Riner.

Q. Then you do not have a regular pull of 43 feet; that is your maximum?

A. Three pulls, that is.

Q. The next hill that you go over, as I understand, is from Green River to Aspen?

A. Yes.

Q. How far is Green River from Aspen tunnel?

A. About 90 miles, approximately.

Q. What is the station at Aspen tunnel?

A. Altamont.

Q. According to your time table the altitude of Altamont is 7214 feet and at Green River it is 6,077 feet. So the climb from Green River to Altamont would be 1137 feet. How many miles did you say that is?

A. About 90, I think.

Q. From 824 to 911 would be 87—very nearly 90. Then, the average rise would be about a foot and a half to the mile, wouldn't it, during that hard climb? In 87 miles there would be a raise of 1137 feet? According to your time table Green River is 6,077 feet and the raise is to 7,214?

A. 7,214.

Q. About 1,137.

A. I have it 7,221.

Q. It is given here in the folder as 7,214. 7,221 will make it 7 miles farther. 1,144 feet. Am I right about that?

A. 1,144.

7156 Q. In a distance of 87 miles?

A. Yes. That is not continuous, however; we have our dips.

Q. It would be an average of 13 feet to the mile. What is your maximum in there?

A. 43.

Q. Have you a minimum there?

A. Not given.

Q. How many miles does that maximum of 43 miles cover, how long a climb?

A. I can't tell you because I haven't the depressions, the dips, as I call them.

Q. So you don't know whether you climb one mile at a maximum of 43 feet or whether you climb 2 miles or three miles?

A. There isn't any question but what we climb a good many miles at 43 feet.

Q. But you can't tell how many?

A. No. But I can tell you from the profile.

Q. I would be very glad if you would furnish that, in view of the fact that some point seems to be made of the difficulty in railroading over these hills, and I will make the same request of you as I did as to the other two hills—the Sherman Hill, the mileage which you make that maximum, and also the one near Rawlins, if you please. Do you happen to know the time that your trains are scheduled from Omaha to Portland in connection with your subsidiary companies—the Short Line and O. R. & N.—the freight trains?

A. The freight trains?

Q. Yes; take this same freight train that is scheduled to make 100 hours and 45 minutes to Ogden or the similar train to Ogden. What is your schedule time?

A. No. 55 leaves Council Bluffs at 4.10 a. m., and it arrives at Granger at 9.45 a. m.

7157 Q. What day?

A. 78 hours and 20 minutes to Granger.

Q. What is the next point that you have from Huntington?
A. I don't know anything about the time beyond.
Q. Oh, you don't know?
A. No.
Q. That is what I was asking you. You are unable to state the time consumed in getting to Portland. You have witnesses here who will know that, probably. Some of these other gentlemen know that.
A. The counsel can say.
Mr. LOOMIS. He can get the information for you if the other witnesses do not know it.
Mr. SEVERANCE. Then, I will request that we have that furnished. I want to know the time from the river to Portland.
Q. As I understand, this is your fastest freight train on that service, isn't it?
A. Through that district.
Q. That is what I mean. Do you carry any tonnage in the Ogden train that is switched out at Granger and put into this train, or does it all move in that train?
A. The Portland train is supposed to carry its consist only.
Q. Was any change made in the time of that Portland train in 1907?
A. I don't recall any.
Q. Do you remember whether any was made or not?
A. I don't recall any; I don't remember any.
Q. Do you remember that there was not any? Would you state that there was no change made?
A. In the time of the Portland train?
Q. Yes, sir; this train that you have just mentioned as making the run to Granger, when it was on the schedule, in 78 hours and 20 minutes.
A. I misunderstood your question.
7158 Q. You understand my question now, don't you?
A. Yes. I think that train was lengthened out, but I don't know how much.
Q. Was that lengthened also coincident with the panic?
A. With the congestion.
Q. Was it in October, 1907——
A. Yes.
Q. ——to put it in months, if you object to the mention of the panic? What freight train carries Los Angeles traffic from Omaha in connection with the San Pedro?
A. 53.
Q. The same one that carries the San Francisco business?
A. Yes.
Q. Do you run solid freight trains to Denver?
A. Yes.
Q. What is their time?
A. 37 hours and 45 minutes.
Q. Is that from Council Bluffs or Omaha?

A. Council Bluffs.

Q. Was any change made in the time of that train in October, 1907?

A. No, I think not. I don't recall, but we made several changes since that time by increasing its speed.

Q. Do you remember what the speed of that train was in that month?

A. No; the operating officers can tell you.

Q. You say you have increased the speed several times since October, 1907?

A. Yes.

Q. The business into Colorado common points is highly competitive, isn't it, as between you and the Burlington and the Rock Island?

A. Yes, although we have never tried to take some business from Colorado that other lines take.

Q. The westbound business and general business is highly competitive, isn't it?

A. Yes.

Q. Did the fact that that business is competitive have anything to do with reducing your time, making better speed?

7159 Was it to meet the time of your competitors?

A. Not entirely.

Q. Was it partly?

A. It may have been partially. It was to get an earlier delivery in our freight terminals in Denver, so as to overcome any delays that we might experience in transit.

Q. How does your mileage between Omaha and Denver compare with the Burlington?

A. I think we are about 30 miles longer from Chicago to Denver than the Burlington.

Q. From the river, I am asking you.

A. I don't know the definite mileage. I always work on Chicago with them.

Q. You could not state the difference in time between the river and Denver?

A. No.

Q. How is your distance compared with the Rock Island?

A. Shorter.

Q. From Chicago?

A. From Omaha.

Q. How much shorter?

A. I don't know.

Q. You are speaking of the distance from Chicago. Are you speaking of business moving over the North-Western and Union Pacific?

A. Yes.

Q. That is your principal connection, isn't it?

A. Yes.

Q. How does the length of the route of the Rock Island from Chicago to Colorado common points compare with yours?

A. I think it is longer.

Q. The Rock Island is longer?

A. Yes.

Q. But you don't know how much?

A. No. We take more time.

Q. Does the Missouri Pacific operate into Denver in connection with the Wabash or some other line?

A. I have paid no attention to that competition and know nothing about it.

Q. The only roads you had in mind were the Rock Island
7160 and the Burlington?

A. Yes.

Q. Do you know the difference in the length of the distance over the Burlington and the Rio Grande to Ogden and the Union Pacific from Omaha to Ogden?

A. No.

Q. One question I overlooked in connection with this chart. As I understood you, your own organization divide up the Union Pacific table into three parts, that is, the Union Pacific Council Bluffs to Ogden, Union Pacific Council Bluffs to Denver, and Union Pacific Ogden to Council Bluffs, green fruit?

A. At that time.

Q. Taking the same average miles per car per day for each one?

A. Yes.

Q. Now, would that be entirely an accurate statement, say, as between the first and the third items—the first item being the Union Pacific westbound, the Union Pacific merchandise train between Council Bluffs and Ogden, which shows an average of 41½ miles per car per day, and also the Union Pacific Ogden to Council Bluffs green fruit train, showing 41½ miles average per day, in view of the fact that the fastest train between Council Bluffs and Ogden is scheduled at 100 hours and 45 minutes and that there are other slower freights, while the green fruit train moves in 80 hours? That would not be accurate to apply to those two divisions alone, would it, that 41½?

A. No. I explained that this morning—that that was a picture—supposed to make a picture territorial terminal district of the other lines shown on that paper; but, as I stated before, the 41½ miles was the aggregate movement of all the cars on the Union Pacific Railroad proper.

7161 Q. And that includes all foreign cars in service on the road?

A. Everything.

Q. And all of your own cars that were not off somewhere on a foreign road?

A. All cars.

Q. And all cars that are in bad order?

A. Yes, sir.

Q. In the shops?

A. Yes, sir.

Q. It included everything?

A. Yes, sir.

Q. I wanted to be sure that I understood your testimony correctly about that. You think that those stock trains running 20 miles an hour are moved at a reasonable rate of speed, do you?

A. I think the stock trains are moved at 20 miles an hour considerably for the reason that 70 per cent of our ascents are westbound, and any train moving eastbound can make its time very much easier than it can westbound, it runs so much faster; and I have no objection to running a train, as we do right along, at 18 and 20 miles an hour.

Q. That is, you do not regard that as reckless running at all, eastbound?

A. No, not with the conditions we have.

Q. But you would running westbound?

A. I would not consider it running westbound if we could make it, but we can make 20 miles so much easier eastbound, downhill, than we can make 20 miles westbound, uphill.

Q. I understood you to say that you regarded the speed made by the 54-hour train as a reckless rate of speed, and unsafe.

A. That train ran 45 and 50 miles an hour.

Q. You would regard a westbound freight train now, scheduled at 20 miles an hour, as being a reckless rate of speed?

A. No, sir, I would not care to run a freight train at that
7162 speed any more than the New York Central or the Pennsylvania would.

Q. You would regard it as reckless railroading?

A. I would not regard it as reckless; I would regard it as unwise.

Q. And you would regard it as reckless to run at 17 or 18 miles an hour, scheduled that way?

A. No. I would not regard it as reckless to run at that rate of speed under proper conditions.

Redirect examination by Mr. LOOMIS.

Q. Referring again to this chart about which Mr. Severance has been interrogating you. As I understand it, the information under the heading "Average miles per car per day, all classes of freight service, January, 1907, to February, 1909," was furnished you by the American Railway Association?

A. It was.

Q. That includes the information as to all of the railroads named on the left of the column to which I have just called attention?

A. It does.

Q. Then, in order to show the comparative merits of the various speeds used, by the different lines mentioned, you placed upon the one side the speeds of the general merchandise freight trains between the main points upon those railroads, and upon the other side the average miles each car traveled per day?

A. Yes.

Q. Your idea has been, as I understand it, that better results can be obtained on the Union Pacific, in view of traffic conditions, by running your general merchandise freight trains at an average speed of 10 miles per hour between Council Bluffs and Ogden than
7163 by running them at a higher rate of speed? Is that correct?

A. We believe so, fully.

Q. In order to show whether or not your theory has been effective, you compiled this chart showing, upon the one side, the speed made by the merchandise trains of these various roads, and, upon the other side, the actual average movement of cars per day, to see how effective those speeds were?

A. For the entire lines.

Q. In getting this information from the American Railway Association, you had to take it for the entire railroad, as I understand it?

A. Yes.

Q. You could not get the movement per car per day on the main line of the Union Pacific between Council Bluffs and Ogden, but you had to take the Union Pacific as a whole?

A. Yes.

Q. The same is true of the other lines represented on this chart?

A. So I understand.

Q. In order to make as close comparisons as possible, you could obtain the actual scheduled speed of the trains upon these different lines between different points; for instance, you could get the speed of the merchandise trains of the Union Pacific Railroad between Council Bluffs and Ogden?

A. Yes.

Q. And put that down. You could get the average speed in miles per hour of the merchandise trains on the Union Pacific between Council Bluffs and Denver?

A. Yes.

Q. And between Ogden and Council Bluffs on eastbound traffic?

A. Yes.

Q. And that was all put down?

A. Yes.

Q. And then you could get the average speed of the miles
7164 per hour on the main line runs of the Santa Fe and the other roads mentioned on this chart?

A. In the same way.

Q. And you placed the one opposite the other for the purpose of making a showing as to the effectiveness, the efficiency, of these various rates of speed in the transportation of general merchandise?

A. Yes.

Q. Then, by adding that, you show that although the Union Pacific runs its freight trains at an average speed of 10 miles per hour between Council Bluffs and Ogden, that the average miles per car a day of all cars in service is 41½ miles; is that correct?

A. On the whole road.

Q. And that on the Santa Fe, although between main-line points they run their freight trains faster, the results in the movement of the entire traffic are not nearly as good.

A. They do not get the car movement per day that we get.

Q. The car movement upon the Santa Fe, the whole road, is 26.7 per hour as against 41.5 on the Union Pacific?

A. Yes.

Q. On the Great Northern the average movement per car per day is 21.5 miles as against 41.5 on the Union Pacific?

A. Yes.

Q. On the Northern Pacific it is 21.4 miles per car per day as against 41.5 on the Union Pacific?

A. Yes.

Q. On the Chicago, Rock Island & Pacific it is 23.3 miles per car per day as against 41.5 on the Union Pacific?

A. Yes.

Q. On the Chicago, Burlington & Quincy it is 29.6 miles per car per day as against 41.5 on the Union Pacific?

A. Yes.

Q. On the Chicago, Milwaukee & St. Paul Railroad it is 24.7 miles per car per day as against 41.5 on the Union Pacific?

A. Yes.

7165 Q. On the Pennsylvania Lines it is 23.9 miles per car per day as against 41.5 on the Union Pacific?

A. Yes.

Q. On the New York Central lines it is 25.2 miles per car per day as against 41.5 on the Union Pacific?

A. Yes.

Mr. LOOMIS. We now offer this chart in evidence in connection with Mr. Mohler's testimony.

The same was marked Defendants' Exhibit 153, and it faces this page.

Q. Mr. Severance asked you a question in regard to this average speed per car per day, in which he assumed that the 41½ miles per day covered the movement of cars on certain portions of the Union Pacific Railroad; is that correct?

A. No.

Q. That is the average movement upon the whole railroad?

A. Yes.

Q. Not including the O. R. & N. or the O. S. L.?

A. No.

Q. Speaking of the Santa Fe Railroad and as to whether or not it is double-tracked, don't you know that the Santa Fe is double-tracked all the way from Chicago to Kansas City?

A. No, I don't.

Q. And that it has a double track as far west as Newton, Kansas?

A. No, I don't know that.

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Q. And that from Newton to Albuquerque it has two separate lines?

A. That I know.

Q. You know that it has two separate lines from Newton west?

A. Yes.

Mr. Loomis. As to the other part of it we will have to prove it by some other witness.

7166 Q. Counsel asked you whether or not the expenditures made in betterments were necessary. Were you spending any money on betterments that did not serve some useful purpose in connection with the operation of the railroad?

A. No, sir.

Q. You considered all of these expenditures proper and useful in the operation of the Union Pacific Railroad?

A. Absolutely necessary.

Q. What type of improvements did you construct? I mean as to whether they were the best of the kind or the poorest of the kind?

A. Our standard, we suppose, are as good as we can adopt, and I think they average high—very high—with any western line.

Q. Did you skimp yourself in the expenditure of these moneys in making these improvements, or was the money spent liberally and freely in order to get results?

A. Mr. Harriman's instruction to me, when alive, was that he did not object to furnishing money, but he wanted the improvements so well made that nobody could follow and change them.

Q. Did you attempt to carry out his instructions?

A. Absolutely.

Q. And did you?

A. I believe I did.

Q. I suppose that you could have managed to operate the road and gotten along without some of these betterments; I suppose, for instance, you could have operated the road without the block signals, could you not?

A. Yes.

Q. And you might possibly have gotten along in some sort of fashion by eliminating a good many of these expenditures?

7167 A. There are a great many we could have eliminated if we had followed a different policy.

Q. What was the object in following the policy which you did?

A. To provide the very best of facilities for the safe operation of the property and the accommodation of the public.

Q. The efficient operation of the property as well?

A. Yes.

Q. Counsel referred to "progressive transportation."

Mr. Severance. No, it was the witness who used that expression.

Mr. Loomis. Well, counsel used it afterwards.

Q. And asked if it were not universal on the railroads in this country. I will ask you to state if you know of any other railroad in the west that has expended anywhere near as much money as the Union Pacific in the making of betterments for the more efficient operation of the railroad?

A. I have no means of knowing what the other railroads have spent. I only know what has been said to me——

Mr. SEVERANCE. As the witness has already stated he does not know anything about it, I object to his stating what has been said to him, as incompetent evidence.

Q. Go ahead, Mr. Mohler.

A. The statements that are frequently made to me of the superb condition of the Union Pacific main lines.

Q. What are the railroads located in the immediate territory of the Union Pacific?

A. The Chicago-Rock Island, the Chicago, Burlington & Quincy, the Chicago North-Western, and the Missouri Pacific. I presume you refer to west of the Missouri River.

7168 Q. Yes. What about the Rio Grande?

A. And the Denver & Rio Grande in the Colorado territory.

Q. Have any radical improvements been made upon any of those lines during the time you have been connected with the Union Pacific?

Mr. SEVERANCE. I object to that. He has already stated he does not know.

A. The question you asked me originally was the amount of money expended, wasn't it?

Q. This does not refer to the amount of money at all; it just refers to the improvements which have been made which might possibly come within your notice.

A. I don't know of any pronounced improvements of those lines in our territory except the Burlington's Milford cut-off at Lincoln, Nebraska.

Q. Do you know of any attempt to improve any of those lines to any extent whatever as compared with the Union Pacific?

A. No.

Q. Counsel was asking you about sidetracking certain trains in order to permit a train to travel from Council Bluffs to Ogden in 54 hours, under existing conditions. With the traffic as heavy as it now is, if you attempted to run a train from Council Bluffs to Ogden in 54 hours and give it such a preferential service that would insure its arrival in Ogden in 54 hours, isn't it true that you would be compelled to sidetrack, in order to produce such results, practically every other train on the road, at times?

A. On single track we would have to sidetrack a good many trains. There are so many operating conditions that it is difficult for anyone to sit down and run a train on paper—it is a very different thing from running it on the rails.

7169 Q. Speaking of the days which were selected to show the actual running time of train 53, I wish you would state what object you had in view in selecting certain days.

A. I asked Mr. Lincoln to select three days in the month of June and three days in the month of October, spread through the month the best he could, to indicate to me just what those trains actually did, and that was the basis upon which the information was obtained.

Q. In order to get a typical showing of the manner in which those trains were performing?

A. Yes, and for that purpose only.

Q. Now, with respect to the time scheduled trains were making in 1907, just prior to the lengthening out of those trains; you had personal knowledge in regard to the time those trains were making, had you not?

A. Yes.

Q. And what do you say as to the time those trains were making?

A. They were not making their schedule.

Q. How late were the trains running?

A. They fluctuated from one hour to ten, fifteen, and twenty hours, as the case might be. They might be held out by a derailment, broken wheel, accident, another train detaining them. We have the history of every train, as to just exactly why it was delayed—its difficulties. Running a railroad is outdoors—it is different from running it in the house.

Q. You found more difficulties in running the trains at that time?

A. Decidedly.

Q. And they were practically all running away behind time?

A. Yes.

Q. So that it was an absolute operating necessity to lengthen out those trains to efficiently operate the road?

A. That was the opinion of the operating forces, and myself as well.

Q. And that was why the trains were lengthened out?

A. Solely for that purpose.

7170 Q. You spoke about giving ample service this summer, in answer to one of Mr. Severance's questions. What did you mean by that?

A. As our second track increases, we certainly will improve our service by shortening schedules, as we are already doing.

Q. In running a train between Council Bluffs and Ogden, at an average speed of 10 miles per hour, including stops, what would that make the running time of the train between stations?

A. That fluctuates from 16, 17, 18—it may run up to 25 or 30 miles an hour, depending entirely on how much they have been delayed at the last station, in trying to recover time, or going down grade. It is almost impossible to say that a train will run a definite rate of speed between stations; because it runs as best it can, in order to get on to the next base.

Q. And its maximum speed is liable to be how high?

A. Its maximum speed will go up to 20 or 25 and may go to 30 miles an hour.

Q. Take a train operating from Council Bluffs to Ogden in 20 miles an hour including all stops, that being the average speed, what would the maximum speed of such a freight train be, at places?

A. Probably in some places 40 miles an hour.

Q. How are the grades from Julesburg to Denver?

A. Water.

Q. No steep grades?

A. No.

Q. Are there any substantial grades between Council Bluffs and Julesburg?

A. Out of Omaha.

Q. Out of Omaha is the only one to speak of?

A. Yes. There are some slight ones around Elkhorn and Waterloo.

7171 Q. You spoke about trying to get trains in to Denver so as to make an earlier delivery. I wish you would explain that.

A. There is a great deal of freight distributed upon other industry tracks in Denver, and our idea is to get the train in earlier in the evening, so that we can deliver the cars to the distributing roads and have them ready for unloading at the morning hour.

Q. You were not making your deliveries as early in the morning as you wished?

A. That is the reason for that.

Q. Do you know when the Union Pacific system began operating trains between Portland and Seattle?

A. No; I don't; and I would not know that they were doing it today, because I have seen no time tables.

Q. In order to run a train from Council Bluffs to Ogden in 54 hours, what would be the average speed?

A. 18¼ miles per hour, I believe. A fraction over 18 miles an hour.

Q. What would that make the maximum speed at times?

A. I should judge it would run 35 to 40 miles an hour. I have been told by several of our train men who handled that train that it has run as high as 60.

Q. That was before your time?

A. Yes.

Mr. SEVERANCE. That was the reckless railroading of Mr. Burt.

Mr. LOOMIS. I don't think the witness put it that way.

Mr. SEVERANCE. Yes; he did.

Mr. LOOMIS. You tried to put it to him that way. I don't think he did.

Mr. SEVERANCE. In substance.

WITNESS. You knew better than that.

7172 Q. In speaking of the improvements which the company has made since you became connected with it, I will ask you

if you did not omit a very important one that is about to be made in Omaha.

A. Yes. We have authority now to go on and construct a new general office building, at a cost of $1,339,000, independent of the cost of the land.

Q. I also call your attention to tie-treating plants. Have you been constructing any?

A. Yes; we have had those in operation for a number of years now, for treating our ties before installing them into the track.

Q. Where are those plants located?

A. Topeka, Kansas, and Laramie, Wyoming.

Q. What is the object of treating the ties?

A. To prolong the life of the tie.

Q. Are you able to state the number of employees on the pay-roll of the Union Pacific?

A. About 20,000 at the present time.

By Mr. SEVERANCE.

Q. About this new general office building at Omaha; that is a necessity, isn't it?

A. Yes.

Q. You have outgrown your old building there?

A. Yes; like our single track.

Q. You are not contemplating a bond issue to pay for that new office building, are you? You expect to pay for it out of earnings, don't you?

A. I do not handle the financial part of it.

Q. You have not heard that there is going to be any new issue of capital?

A. There has not been any intimation to me.

Q. Counsel has been asking you what you have heard from other people, and I thought I would ask you about that. You spoke
7173 about a couple of millions you were going to spend towards the Union station in Kansas City. All the roads entering Kansas City are going in to that station, aren't they?

A. Yes.

Q. So that you are not singular in respect to that. You are going in with the other roads, to build a suitable station for a large center like Kansas City?

A. Yes. In addition to that expenditure, we are dismantling a bridge which we put in since the 1903 flood at Kansas City—double-track, of modern construction, and going to put a new one in its place, at an expense of $415,000.

Q. Why are you dismantling the other bridge?

A. Because it is an order of the War Department that all encroachments on that river shall be changed. We are one of the small sinners.

Q. You are simply doing that under orders of the War Departments, as other railroad companies are making changes under the orders of the War Department?

A. It is an expense.

Q. I know. I say it is an expense made necessary to comply with the law.

A. Yes, but an expense that we supposed, when we built our new bridge, we would not incur again.

Q. That is where you were mistaken, is it?

A. It seems so. It was before my day.

Q. But the other lines are having to make some changes there, too, aren't they, some of them?

A. I judge so; some of them, not all of them.

Q. "Some of them," I said; that was my question.

A. Yes.

Q. Now, this tie-treating plant is something that is becoming more or less common on different lines, isn't it?

A. It is now.

Q. And in treating the ties, what do you do, do you use creosote?

A. Zinc.

7174 Q. The purpose of whatever treatment you give is, to make the life of the tie longer?

A. Yes.

Q. And therefore maintain your road more economically?

A. It is not that so much as it is the scarcity of timber; it is more difficult to obtain it.

Q. What kind of ties do you use?

A. Texas ties on the eastern end, and Wyoming——

Q. What kind of wood?

A. Pine.

Q. What is the life of a pine tie, not treated?

A. About four years.

Q. What is the life of a pine tie, treated?

A. We hope, eight or ten years.

Q. Two or two and a half times as long?

A. We hope so.

Q. Then it is an economical measure, isn't it?

A. Yes; and it is a matter that the Government of the United States desires us to take hold of.

Q. The Government seems to be suggesting a lot of good things to you. What is the cost of one of those pine ties, laid down at Omaha, now,—not treated, I mean?

A. It fluctuates. We pay from 80 cents to as high as a dollar at Kansas City, untreated.

Q. What does it cost to treat a tie?

A. From 10 to 12 cents more.

Q. If, on an investment of 80 cents or one dollar, by adding 12 cents more you can make that tie last two or two and a half times as long, it is a very economical thing to do, isn't it?

A. It is in line with our general plans.

Q. That is not what I asked you. It is a very economical thing to do, isn't it?

A. Yes.

7175 Q. You get from two to two and a half times the use of it for an additional expense of 12 per cent, assuming you pay a dollar?

A. Two and a half times.

Q. That would be 200 or 250 per cent of what you would get without treating it. Mr. Harriman gave some testimony which is put into this record. See if this testimony of his does not sum up the situation as to those improvements. After speaking of the large amounts of money that had been expended on the Union Pacific system, he said: "Those improvements, which cost all these millions of dollars, have enabled us to develop a larger traffic, permit a greater traffic to go over those lines, and to reduce the percentage of the cost of operation." Isn't that a true statement? Does that accord with your opinion?

A. The annual reports would show that.

Q. Then you agree with Mr. Harriman's statement?

A. I think that it has aided us in our operation.

Q. Hasn't it reduced the percentage of the cost of operation, just as he stated?

A. Yes.

Q. Now, counsel was asking you about the figures on this table showing the average miles per car per day that the traffic was moved, and comparing the Union Pacific movement with other lines. It appears, for instance, that the Pennsylvania average movement is 23.9 miles per day, as compared with the 41½ of the Union Pacific. That average daily movement is inversely to the number of large industries and large terminals along the line of railroad?

A. Yes.

Q. Consequently, the Pennsylvania road having many large towns close together, many large industries at which cars have to be set out for loading, will necessarily show a shorter average per car per day movement than you would show with your long line

7176 of road running through a comparatively uninhabited country?

A. I could not answer that question, because I am not familiar with their track.

Q. You have been over the Pennsylvania railroad?

A. Yes.

Q. You know that starting with New York it passes through a large number of very big towns between here and Pittsburgh?

A. Yes.

Q. And other large towns in Ohio and Indiana, and then comes to Chicago; you know that, don't you?

A. Yes.

Q. You know that it passes through the greatest manufacturing centre in the country, don't you?

A. Yes.

Q. You know that cars are set out to these factories to carry their product all over the country don't you?

A. Yes.

Q. Isn't it a fact that that item—these extensive cities and terminals and the large industries—would account for a certain amount of diminution in the average miles per car per day, as compared with a line located as the Union Pacific is?

A. No, I wouldn't want to say that, with my knowledge.

Q. Do you have any doubt of it?

A. I am not going to make a statement that I don't know anything about, Mr. Severance; because the business is so different on different roads. We have business of our own that is not a long business, lots of it—short mileage.

Q. Did you hear Mr. Kruttschnitt's testimony?

A. Yes.

Q. In which he explained why the average number of miles per car per day was less on the eastern or Atlantic division of the Southern Pacific than on the Union Pacific?

A. Yes.

Q. Because of the great number of terminals down in Louisiana—which he said were the graveyards of cars?

7177 A. Mr. Kruttschnitt would know what he was talking about, in connection with those properties.

Q. Well, the principle he suggested, as to terminals being the graveyards of cars and thereby reducing the average per car per day mileage is a correct one, isn't it?

A. Terminals reduce the time.

Q. And large industries at these terminals, with many industry tracks and all that, reduce the time, don't they?

A. They affect it, although——

Q. They affect it in that way, don't they?

A. They affect it some; they do not affect it so seriously as you suggest.

Q. I am not talking about the amount, I am asking about the way in which they affect it. They reduce the average per car per day mileage, don't they?

A. Yes. We have large terminals of our own.

Q. Do you think your terminals are comparable with those on the Pennsylvania road?

A. No, I don't.

Q. You know they are not, don't you?

A. I know they are not.

Q. Or on the New York Central?

A. No.

Q. What is the largest town on the Union Pacific?

A. Denver. And Kansas City——

Q. And Omaha?

A. And Omaha.

Q. Those are the three big towns?

A. Yes.

Q. On your main line, over which most of your traffic moves from Omaha to Ogden, the largest city is Omaha, isn't it?

A. Yes.

Q. What is the population of Omaha?

7178 A. About 140,000.

Q. What is the next largest town?

A. South Omaha.

Q. How big is that?

A. About 40,000.

Q. What is the next?

A. Grand Island.

Q. How large is that?

A. About 12 or 14 thousand.

Q. Those three are the largest towns on that whole system—a thousand miles long?

A. Except Cheyenne.

Q. How large is Cheyenne?

A. About eight or ten thousand; somewhere along there.

Q. Do you think that a line of road a thousand miles long, like the Union Pacific, on which the largest towns are the ones that you have mentioned, when you are arriving at the average percentage of miles per car per day, is a fair comparison with the Pennsylvania Railroad from New York to Chicago, which has almost the same mileage, going through the towns that it does, or the New York Central from New York to Chicago? Do you think that is a fair comparison or would illustrate any fact that we are trying to develop in this case on either side?

A. Yes, I think it is; and it is a good illustration of a good movement of equipment on the Union Pacific railroad.

Q. You think, do you, that that is a fair comparison—to compare a thousand miles over the Union Pacific, with a town of 140,000 inhabitants at one end, and the mileage of the New York Central between here and Chicago, and the mileage of the Pennsylvania between here and Chicago, with the enormous cities at each end and the enormous cities in between—Philadelphia, New York, Pittsburgh, Harrisburg?

A. The Union Pacific represents a mileage of 3,400; and about 40 per cent of that mileage is branch line service.

7179 Q. That would add to the unfairness of the comparison, wouldn't it?

A. No; that would have a tendency to slow down our mileage on equipment rather than increase it.

Q. Do you know anything about the branch lines of the New York Central?

A. No, sir.

Q. Or the branch lines of the Pennsylvania?

A. No.

Q. Now, counsel asked you a question, to which I objected, as to whether you knew of any attempt to improve other lines in your territory; as I remember his question, comparable with the improvements on the Union Pacific. You stated, did you not, in answer to my question, that you had not been over the Santa Fe road in many years?

A. Yes.

Q. So you don't know anything about it, do you, except it might be by gossip?

A. I only know of that loop that they have put in out in the Albuquerque territory.

Q. That is what is called the Belen cut-off, isn't it?

A. I don't know its name.

Q. It gives them the new line from Kansas to a point immediately west of Albuquerque, doesn't it? It goes around the south end of the Raton Mountains?

A. I can't tell you.

Q. You don't know even that about it?

A. No.

Q. And as to any other improvements they have made on the Santa Fe you know nothing?

A. No.

Q. You don't know what they have done in Arizona in reducing grades and eliminating curvature?

A. No; I am not conversant with it. The road is out of our territory.

Q. Then all you intended by your answer to Mr. Loomis, when he asked you whether you had heard of any similar improvements, or whether you knew of any similar improvements, was to say

7180 that you knew nothing about it?

A. I referred to the roads in our immediate territory only.

Q. What do you call the roads in your territory?

A. Parallel with our lines in Nebraska.

Q. What roads?

A. The Rock Island and the Burlington principally. The Northwestern.

Q. What was the comparative condition of the Rock Island and the Burlington at the time you commenced the improvements on the Union Pacific or the time they were begun there? They were in better condition, weren't they—the Burlington and the Rock Island?

A. I don't know about the Rock Island. The Burlington was.

Q. So they did not demand as much additional work, did they, in order to put them up to standard shape?

A. I wouldn't want to express that opinion for them.

Q. Well, you say they were in better conditon than you were?

A. They were in better condition physically.

Q. That is what I speak of.

A. The material in the track was in better condition than ours.

Q. That being the case, in order to bring you up to a parity it would not be essential for them to spend as much money, would it?

A. We did not intend to bring ourselves up to a parity, but to surpass them.

Q. I will ask you the question again and perhaps you will understand it. If, as you have said, the Burlington was in better physical condition than the Union Pacific at the time the improvements upon the Union Pacific began, it would be necessary, in order to bring the two lines up to the same condition, for the Union Pacific to
7181 spend more money than it would be necessary for the Burlington to spend?

A. Yes.

By Mr. LOOMIS:

Q. You said your intention was to surpass them. State whether or not in your judgment you did surpass them in the improvements made.

A. We may be egotistical about it; we think we have.

Q. Counsel has asked you a number of questions in regard to the fairness of the comparison made between the movement of cars on the Union Pacific and the Pennsylvania. I wish to ask you some of the advantages the Pennsylvania possesses over the Union Pacific in the movement of its cars. How many tracks has the Pennsylvania?

A. Four east of Pittsburgh: two west of Pittsburgh.

Q. And the Union Pacific, for a large portion of its distance, is a single track line?

A. Yes.

Q. Does not the possession of this large number of tracks give the Pennsylvania a considerable advantage over the Union Pacific in the movement of its traffic?

A. I should so consider it.

Q. Is the Pennsylvania road the only one with which comparison has been made in the chart which you have made up?

A. No; numerous others.

Q. Mention some of them in the more immediate vicinity of the Union Pacific. Have you the chart?

A. No.

Q. Let me call your attention to several. Comparison is also made with the Santa Fe, is it not?

A. Yes.

Q. Rock Island?

A. Yes.

Q. Great Northern?

A. Yes.

Q. Northern Pacific?

A. Yes.

Q. St. Paul?

A. Yes.

7182 Q. Chicago, Burlington & Quincy?

A. Yes.

Q. Speaking about the new office building, I suppose you consider it as needed; but do you imagine that you could still get along for a few years without it, if you had to?

A. We could get along without it if we had to.

7183 WILLIAM L. PARK.

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct-examination by Mr. LOOMIS.

Q. Please state your residence and occupation?

A. My residence is Omaha, Nebraska: general superintendent of the Union Pacific Railroad.

Q. How long have you been connected with the Union Pacific Railroad, and in what capacities?

A. Since April, 1875; as brakeman, conductor on freight trains, passenger conductor, assistant superintendent, division superintendent, and general superintendent.

Q. I wish you would make a general statement as to the physical condition of the Union Pacific Railroad from the time you became connected with it in 1875, down to the time of the reorganization in 1898.

A. The line was constructed on the contour of the country, pretty generally; that is, it was built around the hills instead of cutting through. It was laid close to the surface of the ground, through the depressions and over the hog-backs, as they were called, making a great many vertical curves. The depots were roughly constructed of boards nailed upright on the framing, the cracks battened, and without foundations other than posts or wooden foundations. The telegraph line consisted of two wires on small poles of irregular size. The batteries were of the gravity style, placed about 200 miles apart, at which there were also located repeating offices, to which the messages were sent and then repeated further along. The

7184 bridges were pile bents or wooden trusses placed on abutments. The stone work consisted of native stone, which very rapidly disintegrated. In the smaller openings wooden boxes were used. And some of the culverts were of the native stone.

Q. Was steel used in bridges at that time?

A. Very little steel. Up to the time of the reorganization there was only about 12,000 feet of steel in the bridges. There was also another form of drainage used, called the French drain; a primitive arrangement of rocks under the track, through which the water drained. It was not a bridge, but it permitted the water to pass through. It was something that was very cheaply constructed, and.

under certain conditions, answered its purpose, although it contained an element of danger.

Q. Let me refer you to the matter of shops and round-houses.

A. Shops and round-houses were frame structures. Some of them were of the native stone, and some brick. The tools and appliances were crude.

Q. How about the water tanks?

A. The roadway water tanks consisted of a tub holding about 25,000 gallons, placed on frame bents; with a barn structure around it and a stove underneath to keep the water from freezing. The discharge pipes were very small—about 4 inches. These water stations, east of the mountains, were supplied mostly with windmills; and there were also located at the water stations, hand pumps.

Q. Was not the wind always in operation out in that country?

A. The wind quite often failed, and it was necessary to call in the section men, and sometimes the train employees, to operate the hand pumps. There were no signals or railroad crossing protection; very little fencing. There was no ballast, except perhaps a few miles over the summit of the Rocky Mountains, or the Black Hills, rather,
7185 where the Sherman gravel that we now use on all of our lines was the natural soil under the track. The rail in the prairie territories was 45 pound iron, some 50 pound steel; in the mountain territories, 52 pound and 56 pound steel. The iron rail was connected with chairs. The steel was connected with fish plates. The chairs are now entirely obsolete, and the fish plates are found about the yards, on minor tracks.

Q. Let me call your attention to the matter of coal chutes.

A. The coal chutes in use in 1875 and 1880 were very primitive; simply platforms at the intermediate coaling stations, from which the coal was either shoveled on to the engines by hand or carried on in boxes by the brakemen. At the district terminals the coal was shoveled from the platform by hand. A little later, after 1880, there were some coal chutes put up at the district terminals, on which cars were run up an incline by an engine and the coal was shoveled into pockets and from there dumped on to the engine by the firemen or hostlers.

Q. Let me call your attention to the matter of passing tracks and terminal yards.

A. The passing tracks were from six to twenty miles apart. They held from 15 to 25 cars. A good many of them were stub-ended; connected at one end only.

Q. How about the ties?

A. The ties were small and of irregular size. A good many of them were taken from along the road; native cedar and mountain pine. None of them were treated at that time; they were in their native condition.

Q. I wish you would give a general statement of the present condition of the property?

A. The line has been straightened throughout from Omaha to Ogden. A great deal of the curvature has been eliminated and

7186 considerably reduced. The grades have been rectified, the sags taken out, and a great many of the hog-backs cut down. The maximum adverse grade going west, except in the Omaha yard, to the summit, is 43 feet to the mile, with the exception of 26 miles from Cheyenne to Buford, where there is a maximum grade of 82 feet. Eastbound the same ruling grade obtains, except between Ogden and Wahsatch, where the old grade of 96 feet to the mile still exists.

Q. What improvement has been made in the telegraph service?

A. The telegraph line has been entirely reconstructed. It now consists of heavy poles carrying heavy copper wires; there are approximately 30,000 miles of wire on the entire line. The circuits are from 500 to 1,000 miles. Dynamos are used instead of gravity batteries. We have 350 miles of copper wire, used exclusively in handling trains, and have now under construction and nearly completed some 2,000 miles of telephone train dispatching lines.

Q. Let me call your attention to the matter of machine shops and roadway water tanks.

A. The machine shops have been modernized; machinery put in for the quick handling and turning of locomotives, such as traveling cranes, air hoists; and for the turning of tires; expediting the work. The standard water tanks are of 60,000 gallons capacity, of steel, on iron columns. The standard of the discharge pipes is a 12-inch opening. The windmills have all been abandoned and the water stations equipped with gasoline engines and steam engines for pumping water.

Q. Have you erected any water treating plants?

A. In the bad water districts we have erected 36 water softeners, the purpose of which was to take out the hard or encrusting substances contained in the water, which rendered the operation
7187 of the engines more effective and extended the life of the flues and bettering the ability to turn them at the terminals, quicker.

Q. What has been done in the way of constructing pipe lines?

A. A pipe line was constructed from Port Steele, Wyoming, to Rawlins, Wyoming, a district terminal, about 16 miles in length. The pipe laid was ten inches part of the distance and 12 the balance of the distance, carrying the good waters of the North Platte River, which is a mountain stream, to the district terminal. This construction amounted to about $300,000. A pipe line was built from Elk, Montana, to Hanna, 16 miles, with a branch to Dana, Wyoming, supplying two water stations between Rawlins and Laramie. The pipe line at Laramie, Wyoming, was reconstructed. And pipe lines are now under construction in the vicinity of Spring Valley, between Green River and Evanston, not yet completed. There were smaller pipe lines and reservoirs built in a number of localities.

Q. Has anything been done in the way of constructing interlocking plants at crossings?

A. Quite a number of interlocking plants have been constructed, mostly along the main line. Several of them are exclusively Union Pacific plants, notably the one at Borie, Wyoming, put in as a safety

precaution. Trains operating on the east side of Sherman hill or trains going on to this junction, are safe-guarded against trains that might be coming down the hill at too high a rate of speed or not within the control of the engineer; in fact an accident of that character induced us to put in that particular interlocking plant. Some of these plants are electrically operated, and some of them mechanically operated.

Q. What type of coal chutes is the company now erecting?

7188 A. The standard type of coal chute is of the conveyor type; a double-track structure in which coal can be taken from three tracks—two underneath and one at the side. The coal is dumped from the cars into a bin, and elevated to the top of the chute, where it passes through crushers which prepare it of proper size for use on the locomotive. These chutes have also been equipped with sand bins or pneumatic sanders, which enable the engine to take sand at the same time that it is taking the coal; also with water cranes; so that second stops may be avoided in obtaining the supplies. There are other types, with a cable hoist, in which the coal is hoisted up an incline, with a gasoline engine, and the pockets and dumping arrangements, sanding arrangements, are practically the same as the conveyor type.

Q. What is the weight of rail now being used?

A. The standard rail is 90 pounds; 33 foot lengths, each rail weighing 990 pounds. The main line from Omaha to Ogden contains over 50 per cent of the 90 pound rail and over 90 per cent of rail weighing more than 80 pounds.

Q. What is the lightest rail that is in use now on the Union Pacific?

A. There is no rail in any of the main tracks lighter than 70 pounds to the yard.

Q. What other devices for safety are being used in connection with the rails?

A. The rail connections are what are known as continuous joints; a combination angle-bar and bridge joint supporting the bottom of the rail as well as the head. This joint is only recently in use. They weigh 86 pounds to the pair, and cost $1.77 each as compared with the

7189 old chair which weighed about 12 pounds and cost 15 cents, I think, and the fish plates that weighed 38 pounds. A tie plate weighing 6½ pounds is used on every soft-wood tie on the main line. This is a recent addition to safety; it prevents the rail from spreading latterally under the traffic. The entire line from Council Bluffs to Ogden has been ballasted, 15 or 20 miles with slag; the balance, to Creston, on the Continental Divide, with Sherman gravel—disintegrated gravel. Creston is about 725 miles from Omaha. From Creston to Ogden the Granger gravel was used. Nearly all of the sidetracks on the main line have also been ballasted. In order to do this, the embankments were strengthened over the

entire distance, leaving them at the base of the gravel with an 18 foot face, and on some parts of the road a 20 foot face.

Q. Had improvements been made in your section houses, and the houses of other employees?

A. The old section house was constructed somewhat similar to the depots—of rough boards. They were all scrapped, and new section houses constructed. Bunk-houses were provided for the laborers, maintenance houses for the signal maintainers, and in a good many localities houses were provided for the agents. These were comfortable buildings, on stone foundations, plastered. At some of the district terminals we also have erected cottages for the train dispatchers and some of the officials. These houses have modern conveniences, baths, hot and cold water.

Q. Let me call your attention to the manner in which the right-of-way is maintained?

A. An effort has been made in the last few years to park the right-of-way. Some 30 linear miles have been planted to alfalfa. At other portions great care has been exercised to keep down the weeds, to encourage the growth of blue grass—a matter that prior to that time had been neglected. A great many parks have been put
7190 in at the principal stations, notably at Omaha, Fremont, Grand Island, Kearney, Cheyenne, and particular effort has been made in that direction out in Wyoming, at Rock Springs, Green River, and Rawlins, where, previous to the advent of these parks, I understand no grass was to be seen in the towns. This was done for the benefit of patrons and as an example of neatness to the employees. The stock yards at intermediate stations were nearly all reconstructed; scales put in for the weighing of individual animals; branding chutes; dipping vats; and other conveniences for the shipper. At the larger terminals very elaborate stockyards were built, embracing modern conveniences, the principal feature of which was two tracks into the yards, which enabled stock to be unloaded from a train and a train to be loaded at the same time. A great inconvenience had existed, prior to that, in that one shipper was obliged to hold his stock in the pens longer than he might have desired. Trains coming in and unloading, perhaps under the requirements of the 28-hour law, and for that reason taking precedence, he would necessarily wait in the yard until all of that class of stock was unloaded. The second tracks enabled us to load a train out and load one in at the same time. Hotels were put up at some of them, for the accommodation of the drovers, containing baths, hot and cold water in the rooms, electric lights about the yards to expedite the unloading of sheep—principally sheep—but stock, at night. A great deal of discomfort to the shipper, and delay, had occurred in not being able to get the shipments out of the cars. Electric lights, and the use of goats to lead the sheep out, solved that problem.

Q. The mention of goats is interesting to me. What do you mean by the use of goats in that connection?

7191 A. Trained goats were employed at the yards at Green River, Rawlins, Laramie and Cheyenne, to lead the sheep out of the cars and into the cars.

Q. Wouldn't they go of their own motion, without a goat to lead them?

A. In the night it was a very difficult matter to get the sheep out of the cars; and we finally hit on this scheme, which I think is peculiar to the Union Pacific. A goat was taken up into the car, and was so trained that he walked around through the sheep, and as he walked out they seemed impelled to follow him.

Mr. SEVERANCE. You say you "employ" these goats. What salary do you give them?

WITNESS. We give them chewing tobacco. That is about all they get out of it.

Mr. SEVERANCE. They work for their board, do they, and luxuries?

WITNESS. Yes.

Q. I wish you would give us a general description of operating conditions as they existed when you first became connected with the road.

A. The mud ballast enabled the trains to be run on only fair time. The rains and snows and winds affected the track, at frequent intervals. The engines were smaller, in 1875 weighing about 50 tons. The passenger coaches were without vestibules, and lighted with candles; later they were lighted with oil lamps, and, still later, with gas. In 1875 there was no air equipment, and the passenger trains as well as the freight trains were held by hand-brakes. The sidetracks were from six to twenty miles apart, and stub-ended, so that trains coming in on the sidetrack were compelled to back out.

7192 The locomotives were all provided with oil headlights, which were difficult to keep lighted; and their failure to burn, in those days, was a prolific cause of accidents. There was a good deal of what the train men called "smoking in." The rules were not as well defined and as carefully lived up to then as at present. The dispatchers watched the trains closely, and obtained the O. S's. at the different stations.

Q. What do you mean by the "O. S's?"

A. The "O. S." is the report of the passing of the train. A close check was kept in that way. There were only a few trains on the road, and the dispatchers at all times knew just what the trains were doing.

Q. Did snow cause much difficulty, in those days?

A. The traffic was very seriously interrupted with snow, in the winter months. The cuts were very abrupt and narrow, and there was very little snow-fencing. This trouble was so serious that commissary boxes were carried in the baggage cars and cabooses, from which to feed the passengers and the crews in such emergencies.

Q. How many days' supplies would you carry?

A. I have been with trains that were delayed a week between terminals.

Q. Did you have supplies sufficient to last that time?
A. We did; yes, sir.
Q. Was there any surplus at the end?
A. Before we were there that length of time, relief trains had reached us; and of course they brought extra supplies.
Q. How many trains were run in 1875?
A. One passenger each way; Nos. 3 and 4.
Q. I suppose you mean by that through passenger trains?
A. Yes, sir. There was a mixed freight and passenger,
7193 known as 6 and 7, and occasionally extras carrying stock and Asiatic goods.
Q. When was the next train put on?
A. The line from Julesburg to Denver was completed in November, 1881. A train was put on between Omaha and Denver at that time, making a second train on the main line, between Omaha and Julesburg.
Q. Was that a passenger train, a freight train, or a mixed train?
A. That was a passenger train. In 1883 another passenger train was put on between Julesburg and Denver, operating in connection with the main line train. In 1887 another through train was put on the main line, which in 1889 was merged into the Fast Mail.
Q. When was it turned into the Fast Mail?
A. I think in 1889. The freight train movement grew in about the same proportion. In 1897 there were about 15 freight trains and four passenger trains on the main line.
Q. Each way or both ways?
A. Both ways.
Q. Making a total of how many?
A. 19 trains. Since that time the passenger trains have increased about 70 per cent, and the freight trains have increased about 25 per cent. We are now operating 24 passenger trains out of Omaha, as far as Grand Island; 20 passenger trains as far as North Platte; 18 from Omaha to Julesburg; and 12 between Julesburg and Granger.
Q. How many as far west as Granger?
A. 12.
Q. How many through to Ogden?
A. 8.
Q. In that connection I wish you would state the number of scheduled through freight trains between Council Bluffs and Ogden at the present time.
A. There is only one westbound scheduled train.
7194 Q. What is that?
A. That is No. 53.
Q. Is that run in sections, to accommodate the traffic?
A. Yes, sir.
Q. Have you a meat special, westbound?
A. There is a train called the Packing House Special that is run three times a week.
Q. Has it a number?

A. No, sir. It is run either as a section of the through California train, or as an extra.

Q. Is there a through train between Council Bluffs and Granger, which goes on to Portland?

A. One scheduled train on the time table.

Q. What is its number?

A. 55.

Q. Is that run in sections as the traffic demands?

A. Yes, sir.

Q. What are the eastbound through freight trains at the present time?

A. No. 54 and No. 56. These are simply the printed schedules. The regularity of eastbound trains on these schedules is not maintained. The eastbound movements are generally on train orders.

Q. Do you have a scheduled train from Granger to Council Bluffs, eastbound?

A. Yes, sir; one.

Q. Is that the return Portland train?

A. It is; yes, sir.

Q. What is the number of the Portland train, eastbound?

A. I was mistaken. There is no schedule of the eastbound Portland train.

Q. How is that run?

A. That is run as an extra.

Q. Recurring to the matter of green fruit train shipments?

7195 A. Green fruit trains are handled on schedule orders, or orders running them as extras.

An adjournment was then taken until the morning of Thursday, February 24, 1910, at 10.30 o'clock.

7196 ROOM 720, CUSTOM HOUSE, NEW YORK CITY,
Thursday, February 24, 1910, 10.30 a. m.

The hearing was resumed before the Special Examiner, Hon. Sylvester G. Williams, at the above time and place.

Present: On behalf of the Complainant, Mr. C. A. Severance, Mr. C. E. Husted; on behalf of the Defendants, Mr. Peter F. Dunne and Mr. N. H. Loomis.

WILLIAM L. PARK

recalled:

Direct examination resumed, by Mr. LOOMIS.

Q. Were you acquainted with the freight train which ran between Council Bluffs and Ogden, westbound, in 32 hours, in the year 1897 or thereabouts?

A. There was a very fast time freight train put on during the summer of 1897. It was called by the train men and others the "Nellie Bly Special".

Q. How did it get that name?

A. This newspaper correspondent, Nellie Bly, was making a flying trip around the world at that time, and the train was dubbed the "Nellie Bly Special", on account of its extraordinary speed. It consisted of about eighteen cars, 500 tons, and was run on passenger train time, with a passenger engine; either as a first section of the passenger train or on passenger train schedules. It was given right of way over passenger trains in the opposite direction, and over all freight trains. The inspections at the district terminals were disregarded. The caboose was frequently changed on the "fly", as the men call it, without stopping the train. Sometimes the engine was changed without stopping the train. And very frequently they
7197 went through the district terminals in two and a half to five minutes.

Q. Explain how the engines and cabooses could be changed without stopping the train?

A. Going into a district terminal they would cut off the engine and it would be run ahead; of course the train would be slowed down; and the out-going engine would assume the speed of the train, and make the coupling; the caboose would be dropped off and the other caboose would be run on with the switch engine.

Q. What was the average speed of that train, between Council Bluffs and Ogden?

A. The time of the train through was 32 hours. The fastest time was made from Cheyenne west, on the descending grades.

Q. What would be the maximum speed on those descending grades?

A. At times the train ran at least 50 miles an hour.

Q. Do you know the occasion of inaugurating that train service?

A. I understood, at the time, that it was a war measure, and rather abnormal.

Q. A war measure directed against which line?

A. The Oregon Short Line; an attempt to run the freight via Ogden and Sacramento to Portland.

Q. Did you consider the operation of that train good railroading?

A. I rode on it a number of times, on the engine; and it was not a safe rate of speed for a freight train.

Q. How long did the 32-hour schedule last?

A. About 60 days. Then the schedule was lengthened to about 54 hours.

Q. In what year was that done?

A. In 1900.

Q. Did the 54-hour schedule succeed the 32-hour schedule?

A. I think there was a schedule of 53 hours intervening.

Q. Then the 53-hour schedule extended from the time the 32-hour schedule was abandoned, down until 1900?

7198 A. 1900; until the 54-hour schedule was effective. The method of handling the 53-hour and 54-hour trains was somewhat similar to the Nellie Bly Special. The inspection at district

terminals was curtailed, and the train was given advantage over other freight trains of all classes, and quite frequently over passenger trains.

Q. What was the average rate of speed of that train, between Council Bluffs and Ogden?

A. About 18½ miles an hour.

Q. Including stops?

A. Including stops.

Q. What would be the maximum speed of that train on descending grades?

A. It would very frequently run 40 miles an hour.

Q. Would it be possible to operate a train on that schedule, under existing conditions?

A. If it was given the right of track over all trains, I think it could be put through on that time. It would not be practicable.

Q. Would it be possible to operate all of your merchandise freight trains upon that time?

A. It would not.

Q. Please describe the conditions of the service in the years 1901 and 1902 and thereabouts.

A. In 1900, at the time of the 54-hour schedules, conditions became very much demoralized on the Wyoming division, between Cheyenne and Ogden. A great many wrecks occurred, and there was considerable congestion. I was sent to the Wyoming division in June, 1900, and found a congestion of freight at Green River, Wyoming, that was quite extensive. There was also considerable difficulty in getting the freight through the Laramie and Rawlins yards. I remained at Green River for 40 days without going to the office and without going to my home.

Q. What caused that condition? The extent of the traffic?

7199 A. The new work had something to do with it, and the running of fast trains without proper tonnage. We were sawing this fast train through Green River, letting it go out of there with part of a train, with from 500 to 1,000 loads of other merchandise waiting to be moved in both directions.

Q. How did the work that was going on, that you have just referred to, affect the movement of the traffic?

A. A good many of the locomotives were necessarily employed in work-train service. There were a good many slow orders in effect, retarding the movement of trains and throwing them off their schedules.

Q. Why were the slow orders given?

A. The slow orders were necessary in order to safe-guard the trains in passing over the track that was being raised under traffic, and the connections that were made with the cut-offs, and the ballast work.

Q. That is, the betterment work that was going on, including the ballasting of the track?

A. The ballasting and also the bridges.

Q. That necessarily interfered with the movement of trains; is that the idea?

A. Yes, sir.

Q. You spoke about the want of tonnage interfering with the movement of traffic. I wish you would explain that a little more fully.

A. This westbound California time-freight 54-hour train, in particular, we were trying to put through as nearly as possible on its schedule time; and in order to overcome the delays and accomplish this, the train was permitted to leave the terminals with much less than the rating of the engine; and if we could have gotten rid of some of the other freight that was ready to go out, we could have more quickly removed the congestion.

7200 Q. That is to say, you think the traffic could have been moved to better advantage if the engines had been permitted to carry the tonnage which they were capable of hauling?

A. Yes, sir.

Q. Did you succeed in straightening out the difficulties which existed at that time?

A. After about 40 days at Green River I was able to leave there; the conditions were about normal.

Q. Did traffic continue to increase after that time?

A. It increased, yes sir; up to the present time.

Q. Did it interfere with the movement of that train that you call the 54-hour train, after the time you have just testified about?

A. As the business increased, the schedules of this train were decreased, and the tonnage of eastbound freight trains was increased. The conditions were very satisfactory up to shortly after the earthquake in California, in April of 1906. During that fall we experienced another congestion that was caused by the backing up of the freight and holding it on our line for delivery to the Southern Pacific.

Q. You may describe the conditions which actually existed at that time, following the San Francisco fire.

A. The relief trains that were started from Colorado and from Omaha and were run for several weeks after the earthquake, started a slight congestion, on account of engines running with light trains. The merchandise accumulated at Ogden and at Green River; was then set out on the passing tracks along the division——

Q. Did you state why it accumulated at those points?

A. Yes, sir; on account of the inability of the Southern Pacific at Ogden to receive it. We were building a double-track between Rock Springs and Point of Rocks at that time, a new second track,

7201 which was just completed; and instead of putting it into service we set out on that track some 7 or 8 miles of merchandise cars.

Q. Destined to San Francisco?

A. Destined to San Francisco. There were so many of them, I know, that in order to guard them I took the mounted train guards

that we have employed in Wyoming to intimidate train robbers, and put them out along these merchandise cars, to patrol them, on horseback, and put out water barrels to protect against fire.

Q. How long did the effects of the increased traffic growing out of the San Francisco fire last, upon the Union Pacific?

A. It lasted through the fall and winter of 1906; and the growth of the business in the meantime had steadily increased. In 1907 our through trains were not making their schedules, and there was some slight indication of another congestion—in the fall of 1907.

Q. Why were the trains not making their schedules?

A. On account of the density of train traffic; too many passenger trains, and too many freight trains.

Q. Were you making every effort you could to get the trains through on schedule time?

A. Yes, sir. Everybody was doing their best. It had become a question of keeping the road clear, along in September; and on September 17, after looking the situation over on the road, I recommended to the vice-president and general manager that we lengthen out the schedules of the freight trains, in order to obtain the maximum efficiency of the locomotives, which was approved; and the schedules of the westbound time-freight trains were then lengthened to 100 hours to Ogden.

Q. Before you made that recommendation, please state the actual time that was being consumed by your westbound general mer-
7202 chandise freight trains in running between Council Bluffs and Ogden. Take it for the month of September, 1907.

A. California expedited No. 1, on the 1st day of September——

Mr. SEVERANCE. Is that the same as No. 53?

WITNESS. Yes, sir. We numbered the trains. We called them California No. 1 and 2, etc., in order to keep a record of them—to keep track of them.

Q. Was it numbered 19 at one time?

A. That was the schedule number of the train—No. 19; and later the numbers were changed. We got so many passenger trains that we had to use the lower numbers for passenger-train service, so the freight-train numbers were shoved up into the fifties; and instead of calling it number 19 on the schedule it was then called No. 53. This No. 53, on the 1st of September, left Council Bluffs on time; went to Green River 92 hours 15 minutes late. Expedited No. 5, on the 5th, left Council Bluffs on time, and went to Green River 54 hours late. On the 15th, No. 15 left Council Bluffs on time and went to Green River 55 hours and 54 minutes late. Those were three trains taken on the 1st, 5th, and 15th of September. During the year preceding, from September 1, 1906, until August, 1907, of 20 trains, scattered from September to August, 8 left Council Bluffs on time, 12 late; an average of 47 minutes late. None of them arrived at Green River on time. 20 arrived there late, an average of 32 hours and 20 minutes late. Following the lengthening of the schedule, of 20 trains scattered through the different months from December, 1907, to Septem-

ber, 1908, 13 left Council Bluffs on time, 7 late, an average of 8 minutes late. 11 of them arrived at Green River on time, 9
7203 late; or an average late arrival at Green River of 5 hours and 54 minutes.

Q. What time do you speak of now?

A. 5 hours and 54 minutes—that is the year following the extension of the westbound time schedule to 100 hours and 45 minutes.

Q. Were the trains generally running away behind time, prior to the lengthening out of the schedules in 1907?

A. Yes, sir; they were running behind their printed schedule. It was impossible to get them over the road in less than a hundred hours.

Mr. SEVERANCE. What was the schedule from September, 1906, to August, 1907?

WITNESS. 74 hours and 30 minutes. What date did you ask?

Mr. SEVERANCE. The time covering the 20 trains that you spoke of; September, 1906, until August, 1907.

WITNESS. 74 hours.

Q. When had the time been lengthened out to 74 hours and some minutes?

A. It was lengthened out in 1903; or, rather, shortened. For a short time in 1903 it was 82 hours and 10 minutes; then it was shortened to 74 hours and 30 minutes; and from 1903 to 1906 it was scheduled at 74 hours and 30 minutes.

Mr. SEVERANCE. Wasn't it scheduled at that up to the time you made the change in 1907?

WITNESS. Yes, sir.

Q. What was the cause of your inability to get the trains over the road on time, in September, 1907?

A. The density of passenger-traffic and freight-train traffic, and quite a good many slow orders incident to the reconstructing of the line.

Q. Were you called upon to find a remedy for the difficulties which existed in the operation of trains at that time?

A. It devolved on me, as the general superintendent, to move
7204 the traffic in the best possible way; to keep the road clear from congestion; and I saw, after my experience on the same division in 1900, that there was no better way to do it than to increase the tonnage.

Q. You came to the conclusion that that was the wisest course to pursue under existing conditions?

A. As a practical operating man, I knew that that would do it.

Q. Explain more in detail why you concluded that would remove the difficulties which then existed in the operation of your trains.

A. The tonnage ratings are fixed for certain speeds; and the train dispatchers are required to give the trains the tonnage which will enable them to maintain the schedules. They have very little discretion as to that. If the schedules were lengthened and the tonnage ratings increased, it would be authority to the train dispatchers to increase the train load. If an engine was rated at 15 or 18 miles

an hour, at 1500 tons, and could haul 2,000 tons at 10 miles an hour, it would permit the dispatcher to get rid of 500 tons more on each train; and that, of course, would reduce the number of trains on the road.

Q. Then, as a matter of fact, the engines had a certain amount of power which was being reserved for speed which the locomotives could not possibly make on account of opposing trains?

A. Yes, sir.

Q. And how did you propose utilizing that extra power?

A. By adding tonnage to the trains.

Q. And is that what you actually did?

A. Yes, sir.

Q. Why didn't you increase the speed of the trains, and thereby remove the difficulty?

A. That was impossible. To increase the speed it would have been necessary to reduce the tonnage, and that would either have
7205 caused a greater congestion or created more trains, which would have made the situation worse.

Q. Why would it have created more trains?

A. For the reason that each individual engine would be handling less tonnage.

Q. That would make more trains necessary to haul the traffic?

A. Yes, sir; we would be getting rid of less tonnage with each individual engine.

Q. So the fact of the matter was that you had about all the trains you could handle on the track?

A. We were about up to the limit of our ability to handle, under the existing conditions.

Q. What were the results following the changed methods which you adopted?

A. The congestions were cleared; all of the freight was moved; and some economies were effected in taking off switch engines and extra employees that were necessary when congestion existed, in order to do the extra work; and over-time was cut down.

Q. Now you gave us the time these trains were making prior to the lengthening out of the schedules and at a subsequent time. I wish you would give me again the times these trains made a year following the lengthening out of the schedule.

A. Of 20 trains taken at random, from December, 1907, to September, 1908, 13 left Council Bluffs on time, 7 late; an average at Council Bluffs of 8 minutes late. They arrived at Green River, 11 of them on time, 9 late; or an average of 5 hours and 54 minutes late. In 1906 the 20 trains referred to previously averaged 106 hours and 50 minutes; and the 20 in the year following the extension of the schedules averaged 106 hours and 40 minutes—practically the same time consumed on the two schedules.

7206 Q. You refer to the recommendation which you made on September 17th. Did you state whether or not that recommendation was indorsed by the higher officials of the company?

A. After conference with the division superintendents as to the conditions that existed at that time, I had a conference with the traffic officials in Omaha, and recommended to Mr. Mohler that the schedules be extended. That recommendation was approved by him, and the extension was made.

Q. In your judgment, what is the most efficient rate of speed upon which to operate freight trains between Council Bluffs and Ogden, to get the general merchandise traffic over the road in the best possible time, taking the traffic as a whole?

A. I should say between 10 and 12 miles an hour, particularly in the territory from North Platte to Ogden, in the high altitudes, where we have prevailing winds and adverse climatic conditions.

Q. What would that make the speed of the trains between stations, excluding stops?

A. That would depend entirely on the conditions; the condition of the weather, and the number of trains to be met, and their importance. I should judge that the trains would run probably 15 to 20 miles an hour between stations. The grades would be a factor, also; whether they were ascending or descending.

Q. I wish you would explain somewhat in detail the difficulties which surround the operation of a single-track road, when there are a great many trains to be operated over it.

A. Under the rules prescribed for the safety and operation of trains, they have certain direction rights and rights by class. Trains inferior to others under the rules and as designated on the
7207 time-cards, are required to clear the superior trains a certain prescribed number of minutes; to be off the main track and clear, with the switches locked. As between trains of the same class, the direction rights on the Union Pacific would require eastbound trains to take the sidings and clear the time of westbound trains. That would apply to freight trains of the same class; the eastbound trains being inferior, by direction rights would be required to take the side track for westbound trains. Trains are handled largely by train orders put out by dispatchers. The dispatcher has authority to supersede the time-table rights of trains; and he does that by issuing train orders, which might give a train of an inferior class the right over a train of superior class either by direction or class rights. As the density of train traffic increases on a single track road, the contingencies increase; the liability of trains to break in two; engine failures; hot boxes; and the automatic block signals under some conditions, result in the delay of trains. In order to make them efficient it is absolutely necessary that the requirements be observed literally. At times these signals will fail and give a stop indication, through some mechanical defect. Although the engineer might see the track clear for five or ten miles ahead, the rules would require him to stop and wait a certain length of time before proceeding, and, under certain conditions, to send a flagman ahead until he could see the next block.

Q. When the traffic is heavy, what is the principal cause of difficulty in making time?

A. The principal cause is the meeting points; meeting and passing of trains.

Q. Can you give us the number of trains you were operating over the Wyoming division in September, 1907, prior to the time
7208 you recommended the lengthening out of the schedules?

A. At what date?

Q. The month of September, prior to the 17th.

A. During 1907, at the time the 74-hour and 30-minute schedule and the 100-hour and 45-minute schedule were in vogue, there was an average, between Cheyenne and Rawlins, of 20.23 freight trains; and 10.37 passenger trains. On the Wyoming division, Rawlins to Green River (that is another freight district in that territory) there was an average of 21.29 freight trains and 10.22 passenger trains.

Mr. SEVERANCE. Where does the Wyoming division extend from and to?

WITNESS. The Wyoming division extends, at present, from North Platte to Rawlins. In 1900 it extended from Cheyenne to Ogden.

Mr. SEVERANCE. I mean at the time these statistics relate to, where did it extend?

WITNESS. Between North Platte and Green River. The total for the Wyoming division was 17.87 freight trains and 10.65 passenger trains.

Q. Why were the train schedules lengthened out prior to the time it was done in 1907?

A. To obtain a greater efficiency from the locomotives, keep the road clear, and to get the best train loads.

Q. For reasons similar to those which actuated you at the time you lengthened it out in 1907?

A. Yes, sir.

Q. Can you tell us the average gross tons handled per train in 1900 and in 1909?

A. In 1900 there was an average of 901 gross tons, and in 1909, 1,538, between Council Bluffs and Ogden.

Q. How many more trains would you have been compelled
7209 to run if the business of 1909 had been handled with the same number of average tons per train as were hauled in 1900?

A. It would have required 70 per cent more trains, or 8.86 more freight trains; a total of 21.52 freight trains for 24 hours; or a total of 33.8 freight and passenger trains.

Q. How would this have affected the movement of your traffic?

A. The additional trains would cause more delays at the meeting points, and the contingencies that I state as being the cause of delays to trains.

Q. What was the effect of the large number of passenger trains you had upon the road, upon the movement of the traffic, in September, 1907?

A. The passenger trains would delay freight trains in proportion to the number to be met and permitted to pass. The more passenger trains on the road, the more delays to freight trains—for the reason that they have superiority both by class and direction.

Q. Were there other trains at that time which were given priority over the general-merchandise freight trains?

A. Stock trains eastbound were given priority over westbound time freight trains.

Q. Did you have a fast mail train on the road at that time?

A. Yes, sir.

Q. Was that given priority?

A. The fast mail train, by a special footnote on the time-table, is given rights over all passenger trains. Passenger trains are required to clear the time of the fast mail train five minutes. As between ordinary passenger trains, the train moving in the direction which gives it inferiority is only required to clear the train in the opposite direction a sufficient length of time to be clear of the
7210 main track before the train in the opposite direction is due to arrive.

Q. How about any priority that may have been given to your green fruit and meat trains?

A. The dispatchers used their judgment as to the handling of the fruit trains. If they were not making their schedules, or had lost time on one of the other divisions, a dispatcher might give them right of track over the district, as against all westbound freight trains. He might possibly give the train the right over unimportant local passenger trains. It quite often occurs that the dispatcher, under those circumstances, would put a local passenger train on the sidetrack, and quite often make a meeting point to enable the freight train having the inferior right to go to the switch up to or beyond the time the passenger train was due there. In other words, the passenger train might be held five or ten minutes for the fruit train, which would amount to a saving of 15 or 20 minutes to the fruit train, and perhaps half an hour, as, were the passenger train not held, the fruit train would be required to be there in ample time to clear the passenger train the prescribed number of minutes and clear itself of the main track.

Q. How does the operation of trains under existing conditions, at the present time, compare with their operation in the early part of 1900, with respect to the safety of the operation?

A. In 1900 accidents were very numerous, particularly in the mountain territory. There were a good many passenger train wrecks and a good many freight train wrecks. Block signals and interlocking plants were installed. Better education of the train and engine
men was inaugurated—constantly schooling them on the train
7211 rules and on the use of the air brake, and more attention was given to physical examinations of the men; all of which are accomplished by keeping on the road the greater part of the year a school of instruction, consisting of three cars, one fitted up

for the examination of train and engine men and other employees who have to do with the operation of trains; another to instruct the engine men and train men in the proper and efficient use of the air; and the other car run bi-annually, in charge of a surgeon who examines new employees and re-examines the old employees as to their physical qualifications. This and other methods of operation have tended to reduce accidents on the Union Pacific since 1900 very materially. From 1902 to 1907 inclusive, the accidents to passengers and employees, as indicated by the reports made by the Union Pacific Railroad to the Interstate Commerce Commission, were, in 1902, number killed to employed, one in 627 employees; in 1903, one in 495; 1904, one in 552; 1905, one in 715; 1906, one in 380; 1907, one in 418. The number of train accidents per million locomotive miles has decreased from 20 to 10 in about the same period.

Q. Going back to the betterments, about which you have testified, I wish you would give an expression as to their character.

A. The work consisted, mainly, in a foundation for that which would follow afterwards, in reducing the ruling grades to 8/10 of one per cent, except in certain localities where the physical conditions made this impossible. The reason that the 8/10 of one per cent (or 43 feet to the mile) was adopted as the maximum ruling grade between Fort Steele, Wyoming, where the North Platte River crosses the track, and Dana, Wyoming, a distance of about 20 or 25 miles, was that the existing grade was about 43 feet to the mile,
7212 and that could not be rectified or reduced. It was found that that was the mark which would need to be set for all of the other grade reductions.

Q. What I really wish to obtain, Mr. Park, is a general expression from you as to whether the betterments were as good as the average, or the best of their kind.

A. I was leading up to that. That laying the foundation for the best possible ruling grades, the next step was to eliminate as much curvature as possible, and reduce the curvature,—which was accomplished by building the cut-offs. These cut-offs were commenced shortly after the reorganization, and their completion and use by the operating department was as follows: the first cut-off was from Howell to Hutton. The old line was 18.45 miles. There were 15.34 miles of new line built, shortening the distance 3.11 miles. This was completed and turned over to the operating department on November 29, 1899. The second cut-off was from Lookout, Wyoming, to Medicine Bow. The old line was 37.97 miles; the new line, 25.94. This was a saving of 12.3 miles. It was put in operation on May 29, 1900. The third important cut-off was from Allen Junction to Dana. The old line was 28.27 miles; the new line, 24.40; a saving in distance of 3.87. It was put in operation on June 10, 1900. From Rawlins to Tipton was another cut-off. The old line was 58.91, and the new line 57.47; a saving in distance of 1.44. The new line actually built was 42.83. Part of the old line was used. This was turned over to the operating department on November 6, 1900. The next cut-off of

importance was between Green River and Bryan, Wyoming. The old line was 11.9; the new line 10.64; distance saved, 45/100. This was turned over to the operating department on October 7,
7213 1900. The importance of that line was not much in the distance saved as in reducing a very bad grade and eliminating a dangerous condition along the Green River. The next cut-off of importance was from Leroy to Bear River, which includes the Aspen tunnel; getting rid of a great deal of curvature over the Piedmont hills; a very dangerous piece of track; one that had been prolific of many accidents. The old line was 31.17 miles. The new line built was 21.61. The distance saved was 9.56, with the Aspen tunnel, about 6100 feet in length. This was put in, November 15, 1901. There was one cut-off prior to that, from Buford to Hermosa Junction. That was a distance of 11 miles. This reduced the summit of the Rocky Mountains some 250 feet, leaving the present altitude at Sherman 8,011 feet, doing away with the Dale Creek bridge which was 125 feet high, filling with disintegrated granite across the valley, a fill which contained some 800,000 yards of disintegrated granite. This was put in service on June 2, 1901, and did not shorten the distance; approximately the same as the old line. About this time, in 1901, after the principal cut-offs (about 20 miles of them) had been put in operation, the question came up as to retaining the old track between Laramie and Hermosa Junction, which had an adverse grade eastbound of 98 feet to the mile. The increase in business from 1880 to 1890 had not been very great; about 11 per cent. The old management were disposed to take up this piece of track, which could be used very well as a second track. The president of the road and the new management thought it should be retained; and I recommended it very strongly (being in charge of the division and knowing the conditions that existed), feeling that the Pacific Northwest and the Cali-
fornia country were developing very rapidly and that the busi-
7214 ness would increase so that it would become very valuable in that particular locality as a second track. While this controversy was on it was not operated for some two or three months. The matter was finally settled and the track retained and is now in use as a second track, although lying on the left hand side of the main track. It is used by trains westbound, on the descending grades. The new line, built from Laramie to Hermosa Junction, has a maximum of 43 feet. Shortly after the order was given to retain the old line, the business increased, and the question of double-tracking other portions of the line became very prominent; and that work was pushed along by building double-tracks in certain localities, to assist the dispatchers east and west of Grand Island, in Nebraska, east of Columbus, and then on the east side of Sherman hill, between Cheyenne and Buford, 26 miles. It was my recommendation that the double-track be placed on the heaviest districts; that is, the districts having the greatest difficulties in operation. So 50 miles was built between Rawlins and Laramie, from Lookout to Hanna; some double-track was built on the next freight district between Point of Rocks

and Rock Springs, 26 miles; and between Rawlins and Wamsutter, 42 miles. And the work was taken up in Nebraska, the double-tracking completed from Omaha to a point about 200 miles west—Watson's Ranch; and then the Lane cut-off was made, which was the last cut-off of importance, and turned over to the operating department in May, 1908. This, as completed, was provided with a double track, and part of the double-track between Council Bluffs and Gilmore Junction was practically abandoned, becoming simply a local line. The next double-tracking was between Green River and Granger,

where we have heavy density of traffic, on account of the coal
7215 from the mines at Rock Springs, going to the Pacific Northwest via the Oregon Short Line, and to Ogden and Salt Lake via the main line. We are now completing the grading and the widening of the cuts between Rock Springs and Green River, and we are ready to lay tracks as soon, as the weather will permit, in the spring in that locality. We also have the grades completed between Watson's Ranch and North Platte, and about 20 miles of the new second track laid during the last fall, to assist trains in getting over the road; laid to the best advantage, not continuously; a little east of North Platte, the district terminal, some 6 or 8 miles east of Brady Island, and some just west of Maxwell. That was laid down for the benefit of the operating department, during the winter. We are now laying the steel on this portion of the new second track, and, as soon as the weather permits steamshovels to be employed on Sherman hill in taking out the ballast, it will be ballasted, and in two or three months at the outside should be in operation. We also have authorized a new second track from North Platte to Julesburg, a distance of 80 miles.

7216 Q. Will you give an expression, generally speaking, as to the type of the betterments which have been made.

A. I think they have been made in a very substantial manner. The foundation has been laid for a first-class railroad; the work is not by any means completed; the bridges have been standardized, and the roadway signs have all been standardized; buildings, depots; the standards of ballast, the standards of rail, the standards of fencing, have all been arranged on the most substantial basis, and if the work continues as it should on that foundation, from my personal observation the road will be as good as any in this country.

Q. How has the work been as to being first-class, otherwise?

A. It has been done in a first-class manner, in every particular.

Q. How do the betterments which have been made compare with those which have been made within the same period upon other western lines?

A. I think they have been, so far as track is concerned, of a higher standard, and the signals and interlocking plants have been of a higher standard than those of other lines west of the Missouri River.

Q. How about the other classes of improvements?

A. Do you refer to shops and roundhouses?

Q. I refer to all the betterments which have been made outside of those you specifically mentioned in the last answer or two.

A. I would not say that the shops and roundhouses were any better than some of the other transcontinental lines. We have
7217 modern shops at Omaha, perhaps as good as any railroad machine shop in the country. Outside of that our shops and roundhouse facilities, while they would compare favorably with other lines, I think are no better.

Q. What would you say as to the present physical condition of the Union Pacific Railroad as compared with other roads west of Chicago?

A. As to roads west of Missouri River, in our territory, I think the physical conditions of the road are better than any other road.

Q. How about the roads between Chicago and the Missouri River?

A. I could not compare them; I have not had sufficient opportunity to observe their track and physical condition. Although I have been over them a number of times, I have not been in a position to give that any particular attention.

Q. In the operation of trains upon the Union Pacific Railroad, has efficiency been subordinated to economy?

A. It has not; I think that efficiency and safety have been paramount, always.

Q. Then, you mean that efficiency has not been subordinated to economy?

A. It has not.

Q. Can you give me the number of miles of double track that was being used in September, 1907, on the main line between Council Bluffs and Ogden?

A. In 1906 there were 94.65 miles of double track; in 1907 there were 214.52.

Q. What time in 1907 was the additional double track put in operation?

A. I have not the data here showing the time it was put in operation; probably in the fall of the year; the work was generally completed at that time.

7218 Cross-Examination by Mr. SEVERANCE:

Q. You spent considerable time yesterday afternoon in describing the physical condition of the Union Pacific railroad back in 1875. There are no railroads in the country now, are there, so far as you are aware, that are in the condition the Union Pacific was then in as to equipment and track and everything?

A. No, I should say not.

Q. That was the old-time railroad?

A. Yes. I think the Union Pacific at that time, perhaps, was not quite as well built as some of the other roads that were built simultaneously, for the reason that it was to some extent a war measure, and there were certain conditions which necessitated the pushing of the work very rapidly. The Government and other interests were

behind it, and they seemed to sacrifice distance for time. They wanted to get through.

Q. They went over the hills instead of through them, and I suppose that accounts for the longer distance involved; a larger land grant also had something to do with it, hadn't it?

A. Yes, and they had a subsidy for each mile. But still they could get around the hills quicker than they could go through them. They did not have at that time the modern steam-shovel and the high-grade powders that are in use at the present time. The work was much slower.

Q. Whatever may have been the reason, the fact is that the road was built more or less in the way all roads were built in the western country in the early times, and not at all according to present standards?

7219 A. Not at all. As I described it, it was perhaps typical of roads built at that time, but, as I stated, I think not as well built as other roads which were built simultaneously, under different conditions.

Q. From 1875, when your connection with the road began, I suppose it was gradually improved up to the time of the reorganization, wasn't it?

A. Yes, sir. From 1875 to 1888 the improvement was rather slow. A good many of the bridges and culverts that were constructed of the native stone had disintegrated and it was necessary to replace them with other structures. The wooden boxes that were under the track had decayed; it was necessary to put in bridges, and a better survey of the drainage areas indicated that waterways could be made that would prevent the numerous washouts that were occurring. The iron rail was taken out and used on some of the branch lines, and heavier rail was put in. From 1885 up to the time of the receivership there was considerable more activity than in the preceding ten years. Under the Charles Francis Adams administration considerably heavier rail was laid, some depots were built, one at Cheyenne costing $100,000, and some stone depots at Valley and Columbus. Some of the yards were enlarged, especially the one at Denver, and shops were built. Less than $4,000,000, I think, were spent in additions and betterments between 1885 and the receivership.

Q. During the receivership were there any betterments put upon the property?

A. Very little; there was nothing charged to betterments during the receivership.

Q. I understand nothing was charged, because I am familiar with the way the courts had the books kept, but were not betterments made and charged to operation?

7220 A. Yes, the line was bettered a little—not very much. Things were very stationary about that time.

Q. Business was very poor?

A. Business was poor.

Q. Earnings were poor?

A. Earnings were poor. No money was spent that could be avoided.

Q. If you remember, they got through that receivership without issuing any receiver's certificates?

A. Yes; I remember.

Q. But the property was kept in shape the best it could be, and after the reorganization the work of putting it up in fine condition was undertaken?

A. Yes, sir. It seemed to have been planned by the men who bought it, and they brought on the scene those who were very capable of carrying the work out and understood what was to be done, and it proceeded from that time until the present time very substantially and rapidly.

Q. And that work has been going on constantly, almost, except during the time immediately after the panic, hasn't it?

A. Immediately after the panic there was some cessation, but it has been practically in progress all the time. Work that was laid out was stopped temporarily, but resumed after conditions became normal again.

Q. Coming down to the panic situation, while I think of it: It appears by your testimony and by that of Mr. Mohler that this lengthening out of the trains was not a measure produced by the panic, but was something you did because you could not make the speed that was formerly scheduled, but it happened to be coincident with the panic? Is that your understanding? At least that is what I understood Mr. Mohler to say.

7221 A. Yes, it was coincident with the panic, and I well knew that it would result in economies, and it did result in economies. We increased the trainload, and when you increase the trainload certainly you decrease your expenses. But the prime cause of increasing the load at that time came about from conditions that had existed some time prior—a threatened and existing congestion, and the recommendation for this particular lengthening of schedules came to me from the train dispatchers and the train masters and the assistant superintendents and superintendents who were wrestling with the operation of trains, and I conveyed that to the vice-president-general manager as my recommendation for a better and more efficient operation of the road and to avoid the possibility of another congestion as had existed twice prior to that in my experience on the Wyoming division. But I will admit that it resulted in economies that were very much appreciated and that we were glad to have at that time, and we were also obtaining economies from other sources.

Q. I was just going to come to that. As a matter of fact you introduced on the Union Pacific, at the time of that panic, very drastic economies, did you not?

A. I do not think we went to an extreme.

Q. Take your shopmen: what percentage of them were laid off?

A. I don't know the percentage.

Q. Wasn't it about 75 or 90 per cent in the winter of 1907?

A. I could not say as to that. The shopmen at Omaha are not under my direct charge, but there was a reduction in the shops at Omaha and in other shops.

Q. Was not that reduction very large, Mr. Park? You live
7222 in Omaha, don't you, and you are in the general offices there?

A. Yes, sir. It was heavy reduction.

Q. Am I about right—that it was from 75 to 90 per cent of the men laid off for a while?

A. I could not state.

Q. In addition to laying off shopmen you stopped double-track work, didn't you?

A. We stopped quite generally the new work. It was approaching the winter season and the work would discontinue naturally in a short time.

Q. Did it continue to be discontinued during the ensuing year, 1908?

A. We gradually resumed the new work.

Q. When?

A. The new work at that time consisted principally of double tracking. In 1907 we had 214 miles of double track and in 1908 we had 297.

Q. That was the fiscal year, wasn't it?

A. Yes, sir.

Q. The fiscal year ends June 30th, doesn't it?

A. June 30th.

Q. So that that additional track between what appears in 1907 and 1908 was constructed between June 30, 1907—four or five months before the panic—and June 30, 1908. Now, isn't it a fact that that double tracking was all done in the summer of 1907, before the panic—that additional double tracking that brought it from 214 miles to 297 miles?

A. No; some of the ballasting and completion was done in the spring.

Q. Did you lay any rail in the spring?

A. Yes, sir, we operated the steam shovels. There never has been a season when we did not work our gravel pits.

Q. You did not do very much that spring, did you?

A. We did not go at it as heavily as we had in some of
7223 the previous years.

Q. Did you lay off men in the general offices at that time?

A. Yes; all men that were not absolutely necessary were dispensed with.

Q. Then, it is a fair statement, is it not, that beginning with the panic, the fall of 1907, you practiced every economy that you could and still continue to operate your properties?

A. Yes, sir. We put in effect all of the economies we knew of, but still maintained the property in a good physical condition. We did not allow it to deteriorate or run down.

Q. You laid off men engaged in maintenance, didn't you?

A. It was, as I stated, approaching winter and we laid them off perhaps a little before they would come off naturally in the winter months—perhaps a month sooner.

Q. You spoke, in answer to Mr. Loomis, yesterday, of certain interlocking plants, and you said that the one at Borie was put in exclusively by the Union Pacific. Borie is the junction of your line to Denver with the main line, isn't it?

A. Yes, sir, the new junction.

Q. The new junction, west of Cheyenne?

A. Yes.

Q. And you put in an interlocking plant there on account of the grades and the fact that you regarded it as essential to safe operation, didn't you?

A. It was put in absolutely as a safety precaution. While the grade descending is only 82 feet to the mile, the conditions there are perhaps somewhat peculiar in that there are long tangents and the freight trains are not as easily held as they would be on lines of greater curvature. We had one train run away and collide
7224 with a work-train, killed eight or ten men, and having that accident in mind, and the possibility of another occurrence, we decided to put in a modern up-to-date interlocking plant, with derail, and a safety switch by which a train not under the control of the engineer could be controlled by the towerman and in that way prevented from coming in collision with a train that might be passing from the Colorado line to the main line. It is an extraordinary precaution at a junction of that unimportance, in that it serves two purposes—in bringing the trains out on the main line under the control of the towerman, and as a safety precaution. And I will state that the Denver line ends on the main line in two legs of a wye, one at Borie and one at Corlett. The one at Corlett we do not protect in this way, and have only the ordinary switch.

Q. Why is that? What is the difference in the two places?

A. That is because it is near Cheyenne and on level track, and the dangerous conditions do not exist there.

Q. Outside of this interlocking plant, are there any others along the line that were installed solely for the use of the Union Pacific where you do not cross a foreign line?

A. Yes, sir, at Lane Junction, the junction of the new line (new cut-off) and the old line, we established a modern up-to-date electric interlocking plant, with twenty-three levers, to let the trains from our old main line onto the double track.

Q. Are there other railroads using that main line?

A. No other roads in that locality.

7225 Q. I know, but I mean is that track out there part of the track that other roads run trains over?

A. No, sir, that is used exclusively by the Union Pacific. The end of all of our tenant line contracts is at Gilmore Junction; that would be some 20 miles east of Lane.

Q. Oh, this interlocking plant is at the west end, where it comes in?
A. Yes, sir, at the west end.
Q. I thought you meant at the other end?
A. No.
Q. Outside of those two have you any?
A. At Watson's Ranch we have a mechanical interlocking plant, at the end of the double track; we have one at Archer, Wyoming, and one at——
Q. What is there at Archer? What kind of a connection do you have there?
A. That is a mechanical——
Q. What other road? I mean.
A. No other connection; it is the end of our single track; that is, we have 10 miles of double track east of Cheyenne and an interlocking plant at the end of that by which trains are permitted to pass from the single track to the double track or in the other direction, only under the authority and direction of an operator stationed there—out of the hands of the trainmen. Accidents have occurred where trains standing at the end of the double track were struck by trains coming in—somebody leaving the switch open. That is impossible of occurrence under these conditions. We have at Buford, the end of the double track between Cheyenne and Buford, an interlocking plant similar to that at Archer, and from Buford to Hermosa Junction an electric train staff installation; also in that territory
the automatic electric signal installation, which, I understand,
7226 was peculiar to the Union Pacific until quite recently. I understand the Lehigh Valley have adopted a similar installation on one of their single-track gauntlets. The building of the double track from Hermosa to Laramie, 16 miles, and from Buford to Cheyenne, 26 miles, leaves a gauntlet of 11 miles between the ends of the double track on top of the Rocky Mountains, and at Buford there is located an electric staff machine, two machines at the next station, Sherman, and two others at the next station, Dale Creek, and one machine at Hermosa, the other side of the Sherman tunnel. A train can go from Cheyenne to Laramie without train orders, over this single track, and that is the object of the installation, and it is the only safe way that trains can be operated over a single track without train orders. When the train arrives at Buford the operator gives them a staff, an instrument taken from the machine, and which cannot be taken from the machine unless it has synchronized with the machine at Sherman. In other words, the operator could not get this staff out of the machine unless the staff at Sherman was in the machine there. And no train crew is permitted to occupy the main track between these two machines unless they have in their possession the staff, except following each other; it has the permissive feature, and in that it is peculiar, and for that reason the automatic signals were established to protect the trains in the rear, so that one, two, three or four trains can go into a block following each other, but never two trains in the opposite direction unless the rules are

violated by the trainmen. It is impossible for the man in charge of the machines to give two trains a staff at the same time, and the switches are electrically locked and connected with the ma-
7227 chine, so that a trainman is practically locked in on the side-track; he cannot get out unless he has a staff authorizing him to go.

Q. These interlocking switches, installed at places such as you have last described, are in a measure temporary, are they not, and will be taken out when the double track is completed?

A. Some of them are, yes, sir. The one at Lane and the one at Corlett will remain permanently.

Q. You don't mean Corlett?

A. I mean Borie. The one at Borie will remain permanently. We have interlocking plants at Council Bluffs and at the east end of the Omaha bridge and at Gilmore, but those are all used jointly by the tenant lines.

Q. You have also interlocking plants at quite a number of different places along the line, haven't you?

A. Yes, sir. We have seven electric interlocking plants and seventeen of the mechanical plants.

Q. Those are put in at places where foreign lines cross you, are they not?

A. Ordinarily, yes, sir.

Q. And the expense is joint, isn't it?

A. The expense is joint.

Q. When were air-brakes invented? You called attention to the fact that in the old days you did not have air-brakes.

A. I should say shortly after 1875. I do not know the exact date. I remember being employed as a brakeman on passenger trains and using the hand-brake. I remember, as a passenger conductor, having the first air-brake train in 1881. I remember, coming east with Mr. S. H. H. Clark, the president, we started out of Laramie and the brake failed, we did not understand it, and we ran by Fort
7228 Saunders, and Mr. Clark said, "We will just cut out the air-brake and go back to the old hand-brake—I think that is safer."

Q. That was as late as 1881?

A. That was as late as 1881. We held the train over the mountain that day by hand.

Q. I merely wanted to find out from you when it was invented because you spoke of the fact that in 1875 you did not have any.

A. It was possible some of the eastern lines had air-brakes in 1875, but it came along very rapidly from 1875 to 1885.

Q. You said a little while ago that economies did result from increasing the tonnage of these freight trains. Can you give an estimate of the percentage of economy as between the two loadings you mentioned; that is, take one of your freight trains now, with the power that you have, load it to the extent of 901 gross tons, which is the amount you stated was in vogue in 1900, and comparing that with

1538 tons; what would you say, as an operating man, would be the percentage of saving, in expenditure of money, in handling that over such track as you have on the Union Pacific, the average grades of the Union Pacific? Of course I understand it must be only approximate; you can't give it exact, but I want your opinion.

A. I would not want to venture a statement; it would simply be a guess.

Q. Confine it, then, to the portion of the road between Omaha and North Platte, where you have practically water grade.

A. There are a great many fixed charges that enter into the problem—the question of wages, the crew, the fuel, and supplies, and——

7229 Q. Those are the things I thought you were taking into account. I do not mean the wear and tear of the roadbed, or anything like that. I mean expense conducting transportation; that is what I had in mind.

A. I will admit that the reduction of expense responds very quickly to increase in the train load. By increasing the train-load you can decrease your expenses quicker and more effectively than in almost any other way.

Q. This would be true, wouldn't it, that increasing the train-load from 901 tons to 1538 tons, the percentage of increase in expense would be less than the percentage of increase in tonnage?

A. I think so.

Q. Mr. Mohler testified yesterday that you have within the last year or two shortened your freight train movement to Denver. How much has that been shortened, and from what time to what time?

A. It was shortened from 58 hours to 48 hours, in January, 1910,—10 hours.

Q. What was the time from Omaha to Denver in 1900? Have you that data there?

A. No, I haven't those figures for 1900.

Q. Do you remember it? Have you any recollection on the subject?

A. I think it was about 48 hours.

Q. Then you think you have got back now to the service of 1900?

A. Yes.

Q. Your mileage to Denver is about the same, isn't it? You haven't shortened that up, have you?

A. The Lane cut-off shortened it, in round figures, 9 miles.

Q. But outside of that——

A. Outside of that it has not been shortened.

Q. The main line to Ogden has been shortened 40 miles,
7230 that is, 31 miles outside the Lane cut-off, as I understand it?

A. Yes.

Q. But there has been no shortening of the line to Denver except the Lane cut-off?

A. Except the Lane cut-off.

Q. You lengthened your time to 100 hours and 45 minutes on the main line to Ogden. Have you shortened that up since?

A. The main line to Ogden?

Q. Yes.

A. No, sir.

Q. That remains just the same as you put it in the fall of 1907?

A. Yes, sir.

Q. You have much more double track now than you had then, haven't you?

A. Yes, sir.

Q. You were speaking a while ago about the condition of your road as compared with that of other western lines. Your competitor into Ogden is the Denver & Rio Grande, isn't it—one of them?

A. Yes, sir.

Q. That is the delivering road at Ogden. Have you been over that line?

A. I have.

Q. Recently?

A. A little over a year ago.

Q. Is that line in condition to make fast time?

A. So far as its density of traffic is concerned, I should say that trains are not very greatly interfered with. The physical conditions are such that it would appear to me not to be safe to make fast time with freight trains on a good many portions of it.

Q. Some testimony was given out in Salt Lake, in this case (possibly you have read it) to the effect that your road and the Rio Grande were both making very poor time out there last
7231 spring; the Rio Grande because the road was not in very good condition and you people because you did not have very fast service to meet and could haul the traffic more economically by not hauling it fast. I wanted to find out if your understanding about the Rio Grande is the same. How was it in the spring of 1909? Did you make the schedule of 100 hours and 45 minutes in April and May, 1909, or were you running late?

A. We were running late.

Q. Are you making it now pretty well?

A. With fair regularity.

Q. How late were you running in April and May, 1909? Your best estimate.

A. I think six, eight or ten hours. The trains varied. The winds and weather conditions affect some of them more than others. I have not made an estimate of the average time late.

Q. Some days you were much later than that, weren't you?

A. Yes, some days it was run up much later than that.

Q. Who selected these 20 days that you testified about?

A. The car service agent's office.

Q. They picked out the days, did they?

A. I don't understand that they were picked out. We took the 1st of September and the 5th of September and the 15th of September,

which would be a fair indication of how the trains were moving then. I don't know whether the other trains were taken on any particular day each month.

Q. The time of trains varies every day, doesn't it, when they are running late? Some days they will be later and some days not so late?

7232 A. It is all dependent on that which they have to contend with. It may be the weather, or meeting trains, or breaks in two, etc.

Q. It would be impossible to give an answer as to the average length of time consumed in getting one of these trains over the road without looking at the train record for every day, wouldn't it?

A. It would be necessary, in order to get an absolutely accurate estimate, to take every run and average them.

Q. You selected the 1st, the 5th and the 15th of September. The time taken by those trains would be no proof whatever as to the time of the trains on the 2nd, 6th and 16th of September, would it?

A. No; just simply an indication.

Q. And that is all you offer it as, in your testimony?

A. That is all I offer it as.

Q. Now, about these other days. It seems that 20 days were picked out from September, 1906, to August, 1907. As I understand you, all the trains in those 20 days were late. Is that right?

A. Yes, sir.

Q. Didn't they find any trains on time during that period?

A. I don't think any of them were running on time at that time.

Q. Do you know anything about it, whether any of them ran on time or not?

A. Only in a general way; I know they were running late, and it would be my opinion that none of them arrived on time.

Q. Do you know whether the 20 trains taken represented a fair average of the time that they were late, or do you simply know that 20 trains showed the result you have given, and you offer those as illustrative?

A. That is all I know—that they were selected at random.

7233 Q. Do you know that they were selected at random?

A. I didn't select them; no, sir.

Q. Who did select them?

A. The chief clerk of the car service office in Omaha.

Q. Is he here?

A. No. Mr. Lincoln, the car service agent is here, and has other figures that he has taken himself.

Q. But as to how they happened to pick out these particular 20 days you know nothing of your own knowledge?

A. No. We very often get a size-up of the conditions in that way, by selecting trains over a certain period.

Q. Do the freight trains run Sundays?

A. They are daily.

Q. Was it an entire year from September 1st to August 31st?

A. Yes, sir, about a year.

Q. You said September to August. I would like to know if it is supposed to comprise the entire year.

A. It was a year; yes, sir.

Q. Then, there have been selected 20 trains out of 365 trains? That is the fact, isn't it?

A. Yes, sir.

Q. What period did the other 20 trains cover?

A. Covered about a year.

Q. September, 1907, to when?

A. To September, 1908.

Q. Some of those trains were on time, you say?

A. 11 of them arrived at Green River on time.

Q. You would not undertake to say, would you, that 11/20 of the trains arrived on time after you lengthened the schedule?

A. No, not from those figures.

(A recess was here taken until 2 o'clock p. m., at which time the witness was recalled and the cross-examination resumed, by Mr. Severance.)

7234 Q. How is the density of the traffic on the Union Pacific main line, Council Bluffs to Ogden, now, as compared with the time in October, 1907?

A. The density of the traffic in 1907 between Council Bluffs and Ogden was 17.34 freight and 11.71 passenger; in 1909, 12.66 freight and 12.28 passenger. In 1907 the total of the two was 29.04, and this year 25.94. The density is a little lessened.

Q. But you have not shortened your time?

A. We have shortened the time on the Portland train and on the Denver train.

Q. But not on the Ogden train?

A. Not on the Ogden train.

Q. On transcontinental traffic to Portland you meet the competition of the Northern Pacific and the Great Northern, don't you?

A. Yes, sir.

Q. On traffic to Denver you meet the competition of the Rock Island and the Burlington, don't you?

A. The Rock Island, the Burlington, the Santa Fe, and the Missouri Pacific are in there.

Q. Do you recall or have you the data here to show the movement of the Overland Limited train in 1900?

A. Yes, sir.

Q. What time did it leave Omaha?

A. No. 1?

Q. Is that the Overland Limited?

A. That is the Overland Limited. November 6, 1900, it was 31 hours and 15 minutes.

Q. That is the time between Omaha and Ogden?

A. Between Omaha and Ogden; yes, sir.

Q. What time did it leave Omaha?

A. I haven't the figures.

Q. I have a memorandum here that it left Omaha at 8.20 a. m. and arrived in Ogden at 2 p. m. the next day. That is in December, 1900?

A. Yes.

7235 Q. Did you change the time between November and December?

A. It is possible. I have the time of the train for each year.

Q. Suppose you read that off, then.

A. November 6, 1900, 31 hours and 15 minutes; June 2, 1901, 31 hours and 25 minutes; December 31, 1902, 30 hours and 35 minutes; October 25, 1903, 30 hours and 30 minutes; November 24, 1907, 33 hours flat; November 20, 1908, 33 hours; November 7, 1909, 33 hours and 30 minutes, and February 20, 1910, 30 hours and 15 minutes.

Q. You have just changed it, have you?

A. Yes, sir; and the dates I give you are the dates of the change in the time cards.

Q. Up to the 20th of February, that is, the other day, you were 33 hours and 30 minutes to Ogden?

A. 33 hours and 30 minutes to Ogden, from November 20, 1908, to November 7, 1909.

Q. Since you slowed down your time in the fall of 1907—November 24, 1907—you had been running from 2 1/2 to 3 hours slower than you did previous to that time?

A. Yes, sir, that is true.

Q. Now you have got back to 30 hours and 20 minutes the other day.

A. 30 hours and 15 minutes.

Q. What time did the train leave Omaha before you made this last change, the other day—February 20th? That would be last Sunday, wouldn't it?

A. January 16th it left at 8:15.

Q. January 16th?

A. Yes, sir—January 16th, 1910. That is a more recent card.

Q. What was it just before that? What was it last fall?

A. November 7th, 1909, was 33 hours and 30 minutes.

Q. Yes, but what time did it leave Omaha then?

7236 A. I haven't the time table.

Q. When you shortened the time last Sunday, during this hearing in New York, what was done with the time on the Central Pacific, the Overland, if you know?

A. I don't know as to that.

Q. Don't you know about the time that is made from Omaha to San Francisco, since it is brought to your attention?

A. I know in a general way, but give it very little personal attention.

Q. Who directed this change that was made the other day, shortening up this time 3 hours?

A. I could not answer that. I have been away from the office, on a conference in Chicago with the firemen, for 40 days, and have been over to Washington, and the last changes in the card I am not familiar with. Mr. Lincoln, the car service agent, who is here, makes the cards and makes the changes.

Q. Did he make the cards in collaboration with the Central Pacific people, so he will know about the through line?

A. He gets the figures from them.

Q. They agree on the time?

A. Yes.

Q. So he will know about the whole business?

A. He will know. He is the man who makes the time cards.

Q. All right; then I will not ask you anything further about it. Can you tell the arriving time in Ogden now, according to this new schedule?

A. 4:30 P. M.

Q. Then you must leave a good deal later in the morning?

A. Leave Omaha at 8:15 A. M. and arrive at 4:30 P. M.; that is 33 hours and 15 minutes.

7237 Q. I am asking you about this present schedule. You said 30 hours and 15 minutes.

A. I haven't got the present schedule.

Q. The schedule that has been put in since we have been taking testimony here you haven't got?

A. No, sir.

Q. You have merely a statement from some source?

A. I have the timetable preceding that.

Q. As I understand you, then, until you made this change last Sunday the time of the Overland was longer than it was in 1900?

A. Yes, sir, about two hours and a half longer, for several years.

Q. And it took that train longer, did it not, to run from Omaha to San Francisco that it did back in 1900?

A. It would unless the Southern Pacific was much faster, unless they recovered the time, the extension; I suppose that was not the case.

Q. Something was said by Mr. Kruttschnitt about getting the mails in out there at a more convenient hour. For years you have been running the Overland, when it was on time, arriving so late that passengers did not reach San Francisco until after a reasonable dinner hour in the evening, haven't you?

A. Well, that would be the viewpoint of the passenger.

Q. It would depend on what time the passenger wanted to have dinner, of course. Presuming they arrived there at 7:28, which is what is shown by the time card, you would say that was rather late to get up to the hotel and get dinner, wouldn't you?

A. I assume the dinner was served on the train before they arrived.

Q. Can you give any reason why, when your line to San
7238 Francisco is 90 miles shorter and your grades have been taken out and your curvature eliminated, you should give 2 or 3

hours' poorer service on the crack train, the Overland Limited, than you did over the old road in 1900?

A. Yes, sir.

Q. What is the reason?

A. Since 1900, the time the reconstruction work was commenced, up to the present time, we have had slow orders from Omaha to Ogden, from one to six hours, thus delaying a train of this class from 1 to 6 hours. Last fall I made a personal check of the slow orders on the fast mail and it aggregated over 3 hours. These slow orders are absolutely necessary; they are in connection with steel bridges that are going in, ballasting work that is being done, and other work of that character, which makes it absolutely necessary to lose this time, to be safe. It varies with the conditions. As I say, last fall in December, I made a check; took all of the slow orders that were out on the different divisions and applied it to No. 9, and it aggregated a little over the 3 hours that would have to be overcome by that engine in order to make its running time from Omaha to Ogden.

Q. You say you have had slow orders aggregating as high as 3 hours. What is the average speed, including stops, of the Overland Limited?

A. In 1900 it was 31.6; in 1901 30.9; in 1904, 29; in 1905, 29.1; in 1906, 31.2; in 1908, 30.3.

Q. That has been practically 30 miles an hour, hasn't it? Sometimes a little less?

A. Yes.

Q. Sometimes part of a mile less and sometimes part of a mile more.

A. Yes.

7239 Q. Shortening your line 90 miles would be just 3 hours' run—at 30 miles an hour, wouldn't it, which would exactly make up for the slow time—the 3 hours that you stated?

A. The Union Pacific only shorten a little less than 40 miles, and I presume the Southern Pacific, in doing similar work, would naturally have slow orders of their own. The 3 hours on the Union Pacific could not be applied on the train through to San Francisco; it could only be applied to the Union Pacific proper.

Q. Has the fact that you have had less grades and less curvature enabled your trains to run faster? Is that any advantage?

A. I hardly think so. Before the grades were reduced helper engines were used. I might give an illustration of that. From Laramie to Red Buttes, on the old line, it was practically level. A train would run there very fast, and then would obtain a helper engine, which would make the speed quite uniform to the top of the hill. Now that grade on the new line has been made uniform from Laramie to the top of the hill, 43 feet to the mile, and no helper engine is used. So that with one engine the train probably would not go between Laramie and Sherman as quick as formerly when using the helper engine, but the economy was there in dispensing with the helper and the elimination of the risk that goes with a double header.

Q. Speaking of the Central Pacific line, you go to Ogden sometimes, don't you?

A. Yes, sir, quite often.

Q. You are familiar with the Lucin cut-off?

A. I have been over it several times.

Q. That is a water-level road across the north end of Salt Lake, isn't it?

A. Water-level; yes, sir.

Q. And the old line was 30 or 40 miles longer, and ran over
7240 Promontory Mountain?

A. I believe there were 43 miles cut off there.

Q. So that the Lucin cut-off not only shortened the distance very much, but it enabled them to run on a water-level instead of running over a mountain? Isn't that true?

A. I would say no. But I would like to modify it or explain it.

Mr. Loomis. Go ahead and explain it.

Witness. The conditions of Salt Lake at times delay the trains over the trestles, between Ogden and the other side of the lake, more seriously than 3 hours.

Q. Is that customary?

A. It occurs quite frequently.

Q. Is it customary?

A. Quite frequently, yes, sir.

Q. Is it customary?

A. Well, I would have to answer that, quite frequently.

Q. Then, you think it is a disadvantage to the Central Pacific to have the Lucin cut-off and they would do better if they ran over the old line on Promontory Mountain?

A. No, I do not think that. I would say they make better time, ordinarily, than they would going over Promontory Mountain.

Q. That is, you say that ordinarily they make better time by using the cut-off?

A. Oh, yes.

Q. That is what it was built for, wasn't it?

A. Yes, sir. And can haul more tons of freight.

Q. You said you had shortened the time of your Portland train. How much was that shortened?

A. The Portland freight train?

Q. Or did you mean the passenger train?

A. No, I meant the freight train. That was shortened from 90 to 74 hours.

7241 Q. That is, clear through to Portland?

A. No, that was shortened on our line between Omaha and Green River.

Q. Granger is the junction, isn't it?

A. Granger is the junction, but the Oregon Short Line crews take the train at Green River, and while they are under our jurisdiction and authority we generally refer to Green River as the end of our run with the train.

Q. Do you happen to know how generally that schedule is maintained, or have you no information on that?

A. I have no information on that. Mr. Lincoln would know, I think.

Q. Do you happen to know what the time is through from the Missouri River to Portland?

A. No, I do not.

Q. Now, as I understand you, you do not run any scheduled train eastbound from Portland, but that is run as an extra?

A. The eastbound trains come so irregularly and are of such varying importance that we run them as extras. We have no regular eastbound through scheduled freight trains.

Q. So, you have no data from which you could show the regular eastbound time?

A. No, only that on the schedule of fruit trains, which generally carry the merchandise or high-class freight that might be coming east, ordinarily put in the fruit trains, we have made about 12½ miles an hour.

Q. Mr. Mohler testified the fruit trains were run on a schedule of 80 hours.

A. Yes. That is practically 12½ miles an hour.

Q. Is that time pretty well maintained?

A. We have maintained that quite uniformly. Some runs have been made in less time, during the heavy business of October,
7242 and the bad weather in December, when it was as low as 40 below zero at Green River. Then, naturally, the trains would be delayed; in fact we hold some of the fruit trains in the valley and do not put them over the road except in daylight, on account of the low temperature.

Q. Hold them in Salt Lake valley?

A. Yes, sir; at Ogden.

Q. On account of extreme cold?

A. Yes. But ordinarily those schedules were very closely maintained.

Q. Do you know anything about the agreement that Mr. Mohler spoke about, under which that 80-hour schedule is maintained?

A. I know of no agreement. I think we have said to the fruit shippers that that would be our time, that that was the time we were capable of making, and I have understood that they wanted faster time and have made some effort to get it. I have been approached by the traffic people to run the train a little faster, but felt that we were doing the best we could on the 80-hour proposition, and that it would be foolish to attempt a faster schedule when we were not able entirely to maintain the one that was in operation.

Q. In connection with that application of the shippers for faster fruit train schedules, did you learn what the total time was consumed between Los Angeles and Chicago?

A. No, I did not. From what was said to me I gathered that they wanted the time shortened on the Union Pacific. Whether it would affect the total time through or not, I don't know; I am not competent to say as to the through time.

Q. What I asked was, whether you learned at that time what the through time is, that is now being made?

A. No, I don't know.

7243 Q. Now, you were testifying with reference to the train that you called the "Nelly Bly," which ran in 32 hours from Omaha to Ogden. You stated that that was a war measure, didn't you? Was that your testimony?

A. That is my understanding. I was not entirely familiar with the cause that led up to the establishment of that schedule, but I understood it was a war measure; that there was some controversy as to the closing of the Ogden and Granger gateways as against the Union Pacific, and that an alliance was made by which the train was moved on equally as good time by way of Ogden and Sacramento.

Q. At that time the Denver & Rio Grande was operating closely with the Short Line, wasn't it?

A. Yes, sir; they were in the deal in some way.

Q. That was the alignment at that particular time, wasn't it?

A. The Ogden gateway was closed to the Union Pacific and, I think, open to the Denver & Rio Grande.

Q. By the Ogden gateway, you mean over the Short Line to Portland?

A. Yes, sir.

Q. And this fast train was put on as a war measure, as you say—as an act of competition, in handling traffic around by Sacramento in connection with the Southern Pacific as against the Rio Grande and the Short Line?

A. Yes, sir.

Q. At that time the Union Pacific was in the hands of the Court, during the receivership, wasn't it?

A. Yes, sir; it was in the hands of the receivers. That was in the summer of 1897.

Q. Who were the receivers that were in charge of the operation of the property? I suppose the work was divided up, wasn't it?

A. Yes, sir. Mr. Doane, Mr. Clark, Mr. Coudert, Mr. An-

7244 derson, and one other.

Mr. Loomis. Mr. Mink.

Q. Mr. Mink was a receiver; yes. I know there were several receivers, but wasn't Mr. Clark the man really in charge of the operation of the property?

A. He was president prior to the receivership and naturally assumed the duties of that office as it might apply to the board, which was composed of the receivers.

Q. He lived in Omaha at the time, didn't he?

A. He did; yes, sir.

Q. And the other receivers did not live there, did they?

A. No; none of the others. I am not sure whether Mr. Clark lived in Omaha or St. Louis. He had been connected with the Missouri Pacific, but whether he moved to Omaha or not I am not sure. His headquarters were there.

Q. This fast time was made under direction of Mr. Clark, wasn't it?

A. I am not familiar as to that. I presume that is true.

Q. Now, when that war ended, or, rather, the occasion for this fast freight schedule ended, as I under-stood you, it was lengthened out to 53 hours.

A. 53 hours; yes, sir.

Q. And how long did the 53-hour schedule continue?

A. I don't remember distinctly. I know the schedule in 1900 was 54 hours and 30 minutes. I presume that it continued during that time, in all probability.

Q. That is, the 53-hour schedule was from 1897 to 1900?

A. I would not state that definitely, but I presume——

Q. Is that your best recollection?

A. That is my recollection.

Q. At the time the 54-hour schedule was in force, the train
7245 was run in sections as the traffic demanded, wasn't it?

A. Yes, sir. It would depend on the amount of business. If there was more freight of the character that was to be put into those trains than one engine could handle at that speed, it would naturally follow that there would be another section running on the same time.

Q. Now, you spoke of the congestion after the earthquake, or after the fire, as our San Francisco friends call it. How long did that congestion continue?

A. It continued, as I recollect it, pretty well into the winter of 1906.

Q. Then the congestion let up?

A. Yes, sir.

Q. As I understood you, in answer to Mr. Loomis, you stated that the eastbound trains had to take the siding for the westbound trains.

A. That is the modus operandi under the train rules and the card rules. The direction rights are with the westbound trains; in other words, the odd-numbered trains on the Union Pacific have the right over those of an even number. The odd numbers run west and the even numbers run east. So that trains of the same class, if eastbound, would take the sidetrack for a westbound.

Q. How is it as between the fruit trains and the merchandise train?

A. In the absence of specific orders given by the dispatcher, the fruit train would take the sidetrack for westbound train, but if he should issue an order that "engine 1620 will run extra from Green River to Rawlins on the following schedule with rights over second class trains," that would require the westbound train to clear the time of the fruit train at the stations specified on the order. In

other words, it would reverse the rights of the train and give
7246 the fruit train rights over all schedule freight trains running west.

Q. I understand that is within the discretion of the dispatcher?

A. Yes; and, as I stated before, the dispatcher handles them at his own discretion. If they are moving quite uniformly on their schedule, making their time, and one dispatcher says to the other—in the consist, whether the train is maintaining its schedule time assigned to each respective district; if it is losing time, the dispatcher farther east would begin to give it a better right of way. In order to recover the lost time he would probably give it the right over all westbound trains, and possibly make meeting points with local passenger trains, particularly east of Cheyenne, where the train would be on the descending grades, and the local passenger trains not of great importance as compared with overland trains, it is quite frequently the case that he would put that train on the sidetrack for a freight train.

Q. That is a reversal, however, of the regular rule?

A. Yes, sir. Ordinarily the time-card rules apply.

Q. And the fruit train takes the sidetrack for the westbound train?

A. If the wire was down and the dispatcher was out of it, the fruit train having an order simply to run extra, would go on the sidetrack for all scheduled westbound trains of all classes, above a passenger.

Q. Assuming the dispatcher is on to the job and the wires are not down, isn't it the ordinary practice for all fruit trains to take the siding in accordance with the rule you have mentioned?

A. Yes.

Q. To put it this way: Isn't the other fact the exception?

A. It probably is the exception. If the train is losing time it is handled otherwise.

7247 Q. Your mail train westbound has priority over passenger trains, hasn't it?

A. Yes, the fast mail has priority over all other trains.

Q. That makes the fastest time of any, doesn't it?

A. Yes, taking out the delays that are incident to that train. There are heavy mail transfers at Council Bluffs before the train starts out. It generally allows 30 minutes to an hour in making transfers. It is the heaviest mail train that runs in the United States. And then at the terminals, after the mail has been worked by the clerks in charge, it is necessary to take it back into the storage cars and take up from the storage cars mail for other States to be worked by the clerks. So that at all district terminals there is a delay to that train that does not occur to the ordinary passenger train.

Q. That does not carry anything but mail, does it?

A. Exclusively mail—and some express.

Q. But it does not carry any passengers?

A. No passengers.

Q. And that train runs through to San Francisco, doesn't it?

A. Yes, sir; and to Portland.

Q. It divides at Green River, does it?

A. It is now being run in two sections, but divides at Green River.

Q. Can you tell how much faster the scheduled time of the fast mail is than the scheduled time of the Overland? Do you happen to know that?

A. No. 9 is scheduled faster than the Overland No. 1.

Q. Faster than the Overland train?

A. Yes, sir.

Q. That is at present. How was it before last Sunday?

A. It follows all the way through. I can read you the schedule, if you like.

7248 Q. No, just give me the difference, approximately.

A. 29 hours and 30 minutes, 30 hours and 40 minutes, 28 hours and 25 minutes from 1903 to 1908, and 26 hours and 47 minutes on the last schedule, February 20, 1910.

Q. There is one thing I neglected to ask you in connection with the Overland. How did the time of the Overland from Omaha to Ogden compare with the time of the Los Angeles Limited, which runs over the Salt Lake road from Salt Lake to Los Angeles?

A. It was a little faster. The Los Angeles Limited, from November 24, 1907, when it was running, was scheduled at 30 hours and 40 minutes as against 33 hours on No. 1.

Q. About three hours faster?

A. Yes.

Q. The Los Angeles Limited made three hours faster time to Ogden—about three hours faster time—than the Overland to San Francisco?

A. Yes, sir.

Q. Did the washout on the Salt Lake road have anything to do with this three hours shortening in the schedule of the Overland?

A. I can't say as to that.

Q. You don't know whether that was shortened up so as to enable the Los Angeles passengers to reach Los Angeles earlier?

A. No, I don't.

Q. I mean by way of Sacramento. Among the improvements that you were speaking of in connection with safety in operation, was examination of men by surgeons. That is nothing that is at all peculiar to your road, is it?

A. There are other roads that have the same system, but not all of them.

Q. I remember, if I am not mistaken, as far back as 1898 seeing them going out on the Northern Pacific. Didn't they have it in vogue as long ago as that?

7249 A. I think the western roads were perhaps a little in advance of the eastern roads. I was impressed that way in addressing the railroad surgeons of New York and New England here two or three months ago. They said it was all interesting and new to most of them—our methods of physical examination.

Q. You examine their eyes to see if they are color blind?

A. For hearing and for color-blindness and for other defects.

Q. You compared the physical condition of the Union Pacific with that of other lines west of the Missouri River. Have you been over the Santa Fe recently?

A. I was over the Santa Fe about two years ago.

Q. Not since?

A. Not since then.

Q. And you do not know the condition of the Santa Fe to-day?

A. No. I knew in a general way of its condition a year ago last January.

Q. Do you happen to know that they have done a great deal of ballasting and that sort of work since then?

A. I presume that they have continued the work in the same proportion that it was under way at the time I went over the road.

Q. But of that you have no personal knowledge?

A. I do not know how much since that time; no, sir.

By Mr. LOOMIS.

Q. Have you the schedule of the Fast Mail as it now exists between Council Bluffs and Ogden?

A. I have.

Q. What time does it leave Council Bluffs?

A. No. 9 is due to leave Council Bluffs at 9:10 A. M.

Q. What time does it leave Omaha?

A. It leaves Omaha at 9:30 and arrives at Ogden at 11:17 A. M.

7250 Q. Next day?

A. 26 hours and 47 minutes, or at a rate of speed of 37 miles an hour.

Q. Referring to the priority of westbound trains over eastbound trains as far as taking sidetrack is concerned, I suppose the freight trains take the sidetrack for all passenger trains, do they not?

A. With very few exceptions that is true.

Q. What are the exceptions?

A. Occasionally a local passenger train will go on a sidetrack for an important eastbound stock or fruit train.

Q. As you have already described?

A. Yes, sir.

Q. You referred to the closing of the Ogden gateway in connection with the running of the "Nelly Bly" 32-hour train. Are you familiar with the actual causes which led to that trouble?

A. No, sir; I have no personal knowledge except the talk that I heard among the officials at that time.

Q. Don't you know as a matter of fact that the trouble grew out of the opening of the Ogden gateway by the Short Line in favor of the Denver & Rio Grande and the Provo gateway?

Mr. SEVERANCE. Mr. Park says that he does not know.

A. I stated that to Mr. Severance in the cross-examination; that that was as I understood it.

Q. How?

A. That the opening of the gateways to the Denver & Rio Grande and the Short Line and closing them as against the Union Pacific.

Q. Are you familiar with those circumstances?

A. Only in a general way.

Q. Wasn't there trouble over divisions as between the two lines?

A. I understand that was the prime cause of the trouble.

7251 Q. But as to what the exact details were you are not informed?

A. No, I am not familiar with them.

Q. Referring to the lengthening out of the Overland Limited, state whether or not the amount of traffic on the road at the time had anything to do with the lengthening out of the time of the train.

A. A number of things from an operative point of view would control the schedules: the density of traffic, the condition of the roadbed under construction, as to the ability of the train to maintain its schedules. All would be factors in fixing the rate of speed from an operating standpoint.

Q. Were there more or less passenger trains operated in 1907, 1908 and 1909 than in 1900 and 1901?

A. There were more passenger trains and more freight trains.

Q. How many more passenger trains? Give me the passenger trains in, say, 1900 and in 1909?

A. The passenger trains in 1900 were 7.31; in 1907, 11.70; in 1909, 12.28.

Q. How did the weight of the Overland Limited compare in 1900 with its weight in 1909?

A. The train is heavier in weight on account of the two additional cars, and the burden on the engine is greater in that it is now electrically lighted and more steam is consumed from the engine in operating the dynamos.

By Mr. SEVERANCE:

Q. Was the time of the Fast Mail, 26 hours and 47 minutes, also put on since we have been taking testimony here in New York—or put in force, I mean?

A. The date of the card is February 20, 1910.

Q. That was last Sunday. So, you have shortened up your time on the Overland and you have shortened up your fast mail time

7252 since Mr. Kruttschnitt went on the stand last week?

A. The time was shortened February 10, 1910.

Q. The Overland Limited was your preferred train, wasn't it?

A. It is the preferred train from a passenger point of view, yes sir.

Q. That is what I mean. You do not contend, do you, for a moment, that if you had desired to do it you would have been unable to run the Overland right along through these years, as fast as it was run in 1900?

A. I would not say that, for the reason that construction work on the Union Pacific has been very heavy. We have had important bridges, which required a speed of four miles an hour, and the laying of rail, raising of grades under traffic, installation of automatic electric signals, and a great many things that cause slow orders. As I say, they would fluctuate from one to six hours between Omaha and Ogden. That period is pretty well passing away. We have got a double track and are constructing the bridges for the second track, and it necessarily makes slow orders on the present operated line. That class of work is getting pretty well out of the way. The large bridges have been completed, and with the advent of the second track, as it comes in now, I see that the service is bound to improve, unless the traffic grows to such an extent in density that it would present obstacles which we could not surmount. I do not think that will be true. I think with the second track through, we ought to operate better than we ever d[illegible], and we will begin to reap the benefit of all that has been done.

Q. Your fastest running time is very slow as compared with that of the eastern roads, isn't it.—passenger time?

7253 A. Yes sir: but I think that our engines exert themselves nearly as much in making the time or trying to make it as on the eastern lines with their completed double track and better facilities. And they are not necessarily confined to the second track. Facilities for taking care of your engines and taking care of your men, and all, have a great deal to do with the efficient operation of a railroad.

Q. You know the Pennsylvania has to put a helper on its train over the mountain from Altoona, don't you?

A. I think the Union Pacific before 1900 had conditions, as I stated a while ago, that by the use of the helper they could make faster time than we have been able to make since.

Q. I know you did not intend to, but you failed to answer my question, which was referring to the Pennsylvania—not to the Union Pacific. I just asked you a simple question about the Pennsylvania. Didn't you catch the question?

The question was read.

A. Yes sir.

Q. You were asked by Mr. Loomis, a moment ago, if the Overland was not a heavier train than it was in 1900. Isn't the engine that you use on the Overland a much heavier and stronger engine than you used in 1900?

A. Yes, sir.

7254 WILLIAM DAVID LINCOLN,

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination by Mr. LOOMIS.

Q. What is your residence and business, Mr. Lincoln?

A. My residence is Omaha, Nebraska, and I am connected with the Union Pacific Railroad.

Q. What is your official title, if any?

A. Car Service Agent, and I have charge of transportation.

Q. What are your duties?

A. The handling of the trains, the movement of cars, and the making up of schedules.

Q. How long have you been connected with that department?

A. Since 1889.

Q. Are you familiar with the actual operation of the road and the movement of trains on the main line between Council Bluffs and Ogden, and were you so in the summer and fall of 1907?

A. Yes, sir.

Q. Will you in a general way describe the operating conditions which existed at that time?

A. In the summer and fall of 1907—I would have to go back and lead up to that period. The San Francisco earthquake and fire had a great deal to do with the condition or the congestion on the Union Pacific Railroad in the fall of 1906 and up to 1907. As we all know, the earthquake and fire was about April 18th or 19th. The day after the fire we were called upon, about 11 o'clock, to furnish six cars to load with government stores and camp equipment, to go from Omaha to San Francisco. Those cars were furnished,
7255 and the train left there as the first section of our No. 3 passenger train, about 4:30 P. M., and went through to Ogden as the first section of that train, and, if I remember correctly (which I think I do), the train arrived at Ogden on time. (I will state that the cars furnished were baggage-cars.) After this train was forwarded, a large number of other trains went forward, loaded with relief goods, such as food and clothing. The cars which were loaded with this commodity were made up in solid trains and went forward to Ogden on the best possible time. They were given preference over all freight trains, and some east-bound passenger trains were placed on the side-track for them. Some of them were given positive meeting-points with these relief trains. After the situation or the distress in California had been relieved, then began the movement of jobbers' supplies to re-stock their stores, and of building material to re-build the cities. This material and supplies moved very heavily during the fall of 1906 and the winter of 1906. On account of the terminals of the Southern Pacific at San Francisco and Oakland being partially destroyed, the cars began to accumulate at those terminals; it was also on account of the jobbers not having

storage-room for the freight as it arrived, and they used the cars for storage purposes. As the cars began to accumulate and congest in the San Francisco and Oakland yards, they would be set out at Sacramento and backed up. The cars reached us at Ogden or Green River at that time. The line between Green River and Ogden being operated from Salt Lake, we began setting out cars at Green River, then Rock Springs. Then we took our double track out of service.

It had just been completed between Point of Rocks and Rock
7256 Springs. We filled that up with cars; we filled up quite a number of our passing-tracks, and the largest of our terminals were congested. This backed up to Council Bluffs. Along about April or May, the following spring, we practically cleaned up the cars which we had on the line, but the Southern Pacific were not in a position to accept regularly from us the cars we offered to them. There would be times when we would set a train or possibly two trains out east of Ogden. Then there was a very heavy movement of other freight, both westbound (on account of the country on the North Pacific Coast and California being settled up) and eastbound, stock and fruit, which made a very heavy movement of traffic in September and October, 1907.

Q. Go ahead. I wish you to explain just what the conditions were as to the operation of trains in the summer and fall of 1907.

A. On account of this heavy congestion, as I call it, our trains (more especially our freight trains) were not being operated on schedule.

Q. How were they running?

A. They were running late.

Q. How late?

A. I would say they would average from ten to twenty and twenty-four hours late, and some later.

Q. What time would that represent on the journey between Council Bluffs and Ogden?

A. It would average along about ninety to one hundred hours and more.

Q. How general was that?

A. It was very general, on practically all of our westbound trains.

Q. For what period of time?

A. From the earlier fall of 1906 up until 1907.

Q. What was the cause of their running behind time to such an extent?

A. The density of traffic.

7257 Q. How many trains did you have at that time?

A. How many trains on the different districts?

Q. Take it through Wyoming. What was the most difficult track to operate at that time?

A. The most difficult track was between Cheyenne and Green River, Cheyenne and Evanston.

Q. Give us an idea of the number of trains you had between those points at that time.

A. In October, 1907, we had between Cheyenne and Laramie 21 freight trains per day; between Laramie and Rawlins 23; between Rawlins and Green River 32, and Green River to Evanston 30.

Q. How about passenger trains?

A. In addition to that there were 11 passenger trains per day on each district between Cheyenne and Green River, and 13 between Green River and Evanston, which is about the capacity on those lines.

Q. How many trains did you have in September, previous?

A. In September, 1907, I have got it here between Rawlins and Green River.

Q. Give us that.

A. There were 33 freight trains in each direction—in both directions.

Mr. SEVERANCE. Which is it—both or each?

WITNESS. Both.

Q. How many passenger trains? or does that include passenger trains?

A. No, sir, that is freight; passengers would be about eleven.

Q. Have you data as to the other districts in Wyoming?

A. Yes, sir. Not for September.

Q. That is what I mean. How about the number of trains in September?

A. Let's see. I think I have, too. Cheyenne and Laramie 19; Laramie to Rawlins 29.

Q. Are those freight trains or passenger trains?

A. Those are freight trains.

Q. How about passenger trains?

A. There were about 11 or 12 trains a day.

7258 Q. What method was adopted for relieving the difficulty you were under at that time?

A. The district terminals were congested. We were trying to move our time freight trains on their schedule, which at that time was 24 hours; not with the tonnage the engines were capable of handling. The engines which were handling dead freight were being loaded to their capacity, and were making an average of 10 miles per hour over the different districts. As the time freight trains were doing practically very little better, to relieve the congestion and to move the freight which was accumulating on us every day, we increased the tonnage on the time freight trains, and cleaned up our congestion. We got our time freight trains and all other trains moving practically on schedule; and we have had no congestion since, except around Rock Springs and Green River in the past 45 days, which was on account of very severe weather conditions.

Q. When confronted with the conditions which existed in the fall of 1907, why did you not relieve the situation by running your trains faster?

A. Running the trains faster would have meant that we would have had to reduce the tonnage, which would have been less cars hauled per train, and would have meant more trains on the road, and

more meeting points; and we came to the conclusion from the facts that the less trains we had on the road and the less meeting points, the more tonnage we could move in a given time.

Q. What was the principal difficulty you experienced in operating trains at times of heavy traffic?

A. The large number of meeting points, which would naturally delay trains, and it was impossible to get them over the road.

7259 Q. Can you give us a brief statement of some of the difficulties encountered at meeting points, at times, during the movement of heavy traffic?

A. I can give a slight example of the movement of a train over a district, during heavy traffic.

Q. Do not go too much into detail. State whether or not it is often the case that more than one train is required to pass another train at the same meeting point.

A. When there is a heavy density of traffic moving over a district, it is quite often that there will be two, and many times three, freight trains on the passing tracks or at the station where they are to pass; and, as the passing tracks are not long enough to hold all three trains, they will naturally have to "saw by each other," as we say, and it will delay all three trains in getting by. If they have to meet passenger trains they have got to clear the time of the passenger train 10 minutes; that is, they have to go in on the sidetrack and have the switches locked 10 minutes before the passenger train is due. It will take them 5 minutes to go in on the passing track, and it will take them 5 minutes to get out. So they lose practically 20 minutes in meeting a passenger train, if the passenger train is on time. That would be only one train. If there are three freight trains there, and not enough sidetrack or passing track for all three trains, then the freight trains and also the passenger train will be delayed in getting by.

Q. What were the results following the methods adopted by you in 1907 for the purpose of removing the difficulties of operation which then existed?

A. When we increased the tonnage of our trains, we began to gain on the cars at the different district terminals, that were being

7260 held back, and we began to move all our freight on regular schedule. The terminals were soon cleared up, and all the freight was moved regularly. I can recall that after we had everything cleaned up, our freight trains were moving practically on time, and the traffic department congratulated us on the fact that we were moving our freight on schedule.

Q. Please give the reasons for the lengthening out of the 54-hour train, No. 19 originally and No. 53 afterwards, prior to the time it was lengthened out in 1907.

A. In 1901, No. 19, I believe, was 54 hours and 30 minutes from Council Bluffs to Ogden. This schedule was not maintained regularly; I was watching the train myself, to see if it was not possible to make the schedule. We were continually after the superintend-

ents to give it preferred attention. They would get the train on time a day or two, and then it would go off and get worse, until it was 8, 10 or 12 hours late. So as to make regular service with the train, we lengthened it out to 74 hours.

Q. What was the cause of the train failing to make its time?

A. The density of traffic was one of the principal causes; and the increased number of passenger trains; the increased movement of fruit and stock.

Q. State whether or not an earnest effort was made to get these trains through on schedule time?

A. We made every effort possible to handle the trains over the line on schedule.

Q. What in your judgment is the most efficient speed, on the average, for running your general merchandise trains between Council Bluffs and Ogden under existing circumstances?

A. My judgment and experience show that the average speed over a district, of about 11 miles per hour, is the best speed to
7261 handle the amount we have to move. Of course, that is the speed from one district terminal to another, and includes the stops.

Q. What would you say as to the proper speed, taking the distance from Council Bluffs to Ogden?

A. 100 hours. We have found by experience that that is the best speed that we can handle trains between Council Bluffs and Ogden and move all the freight regularly.

Q. Were you familiar with the time made by train No. 53, or 19 as it then was numbered, in the years 1901, 1902 and 1903?

A. Yes, sir, partially familiar with it. It was sometime ago, but I have looked up some records to refresh my memory.

Q. Did you look up the records that Mr. Mohler testified about?

A. Yes, sir; that is, they were made up under my supervision, in my office.

Q. From what data?

A. From the chief dispatcher's train-sheets.

Q. I wish you would explain how they were made up, and what difficulties there are, if any, about getting the exact time of the trains.

A. We gave these trains a special number, so we could locate them; so that the dispatchers from one district to another could advise the dispatcher ahead, when the California time freight was due and what it was, and they could keep track of it; in other words, the dispatcher at Omaha, when the train left Council Bluffs, would number it, say, "California Special," or "California Expedited No. 1," and he would report to the dispatcher at Grand Island that engine so and so, on California Expedited No. 1, would reach Grand Island at such a time, and he would show on his train sheet that number. The dispatcher at Grand Island would put the same in-
7262 formation on his train-sheet and the one at North Platte, and so on through. Some times the dispatchers failed to put that information down on the train-sheets. In telling the clerk in the

office to get up the information for me. I told him to take the 2nd, 10th and 20th of June and October, California trains, but if he could not locate that train through to Ogden (some dispatcher may have dropped the number on his sheet so that he could not locate it through) to take the next one that he could run through. That is the reason that they are not all on one day for the three or four years.

Q. At the time you selected the days and gave instructions to your clerk, did you know what the showing would be?

A. I did not.

Q. Had you looked it up in advance?

A. No, sir.

Q. You just gave him these different days, and told him to look up the information for those days?

A. I told him to take three days in June and three days in October. He wanted to know what three days to take, and I said "Take the 2nd, 10th and 20th."

Q. And the results of the investigation are as Mr. Mohler testified upon the stand here?

A. Yes, sir.

Q. In your judgment are those examples typical of the actual movement of that train at that time?

A. Yes, sir.

Q. Are those train-sheets in your charge at this time?

A. They are practically in my charge. They are in the dispatchers' offices, but I can have them at any time that I ask for them.

Q. Are they where you can afford counsel for the Government or any representative they may select, an opportunity to examine them?

A. I can have them sent to my office so they will be con-
7263 venient for any one who wishes to examine them.

Q. And will you explain to them how the train sheets are made up, so they can ascertain for themselves the exact time these trains were making?

A. I will be glad to give them any information they would desire to have at the time they examine the sheets.

Q. And will you do the same as to the train-sheets covering the time made by trains in the summer and fall of 1907?

A. Yes, sir.

Q. Or any other time between 1900 and the present time?

A. Yes, sir; with the exception that the sheets for 1900, between Green River and Ogden, have been misplaced and I cannot now locate them. I could not find them when I made up this report.

Q. You spoke about the Southern Pacific terminals at San Francisco being destroyed by the earthquake. Are you certain as to your information about that?

A. I could not testify as to that from personal observation. I got my information from the reports of the Southern Pacific that they could not take our freight; also from newspaper reports.

Mr. DUNNE. Mr. Severance, the fact is that the terminals were not destroyed; but the facilities of the shippers were destroyed. They were using our terminals and cars as storehouses.

Mr. SEVERANCE. Yes. I understand that. I know the ferry-house was not destroyed, but I know that the shippers warehouses were destroyed.

Mr. LOOMIS. Are you willing to take that as a qualification of the witness' testimony on that subject?

Mr. SEVERANCE. Yes. I know it is true. Certainly.

7264 Cross-examination by Mr. SEVERANCE:

Q. You stated, in answer to Mr. Loomis, when he asked you the best speed to be maintained by freight trains from Omaha to Ogden, that in your opinion 11 miles an hour was the best?

A. Between district terminals, yes, sir.

Q. Including stops?

A. That would include district terminal stops.

Q. Includes all the stops?

A. No, sir. Between district terminals, about 11 miles an hour. That does not include the dead time at terminals.

Q. At terminals—that is changing engines?

A. Yes, sir.

Q. That is all?

A. That is all.

Q. It does not take long to do that, does it?

A. We generally have a train at the terminal about 1 hour, to make our changes and the necessary inspection, and to take the car numbers and make up the tonnage sheets.

Q. How many terminals are there between Omaha and Ogden, at which this inspection is made?

A. There are 8 terminals between Council Bluffs and Ogden, not including Council Bluffs or Ogden.

Q. You say you keep them there about an hour?

A. Yes, sir.

Q. At each terminal?

A. Yes, sir.

Q. What is the distance? A thousand miles, isn't it?

A. It is 993 or 994 miles.

Q. The time is 100 hours and 45 minutes?

A. Yes, sir.

Q. If you take out eight hours, it would leave 92 hours and 45 minutes?

A. Yes.

Q. 11 miles an hour would be about 90 hours, for the distance you have stated, wouldn't it? Just about 90 hours?

7265 A. I want to figure it up.

Q. So you have a little leeway to go on there—two or three hours?

A. Well, there are some district terminals where we would take more than an hour. At Cheyenne we would take more time than one hour. At Sidney we would take more time than an hour, on that train, for the reason that it goes into Sidney about 10 or 10.30 at night. To save carrying the train on a dispatcher's sheet after the next day, we do not start it out until after midnight. It is an accommodation and a help to the dispatcher.

Q. Well, you make a rather leisurely trip of it, don't you, compared with what you used to?

A. We do not make the schedule or the time that we used to make.

Q. You stated that when you had the 54-hour and 30-minute train it ran from 8 to 10 or 12 hours late, which would make the running time 62, 64 or 68½ hours, all together. So the difference between your running time now and what it was before you shortened your line 40 miles, before you had reduced the grades and eliminated the curvature, is something like 35 hours; you run about 35 hours slower than you did before you had your improvements; that is about right, isn't it?

A. No, sir.

Q. I am quoting your testimony. You said that in 1901 your schedule was 54 hours and 30 minutes; that the train was not run on time but usually ran from 8 to 10 or 12 hours late. That was your statement. If you add 12 hours (the extreme that you stated) to 54 hours and 30 minutes, you get 66 hours and 30 minutes. If you subtract that from 100 hours and 45 minutes, you get 34 hours and 15 minutes—which is pretty nearly 35 hours. My figures were about right, weren't they?

A. Your figures were about right. But you said something
7266 about the grades and curvature. Most of the grades and curvature had been reduced in 1900.

Q. In 1901?

A. Yes.

Q. Had the Lane cut-off been put in, in 1901?

A. No, sir.

Q. Had the new line over Sherman hill been opened in 1901?

A. I think it was opened in the fall of 1901.

Q. You had the same rate of speed, or rather better, in the year before—in 1900?

A. Yes. We did not have the density of traffic that we had in 1907 and 1906.

Q. Well, I am about right in my statement. We will leave out everything, then, about the fact that you have reduced your grades and eliminated curvature. You have reduced the length of your line about 40 miles, haven't you?

A. Since 1900 we have reduced the length of the line about 40 miles.

Q. So your line is 40 miles shorter; and I assume it is at least not in worse condition than it was then—perhaps better; and still you are 34½ hours longer in giving the merchants of Salt Lake

their merchandise, from the Missouri River, than you were then, according to your own figures, assuming that you run your trains on time at the present time; that is right, isn't it?

A. We are giving the merchants at Salt Lake, all the merchants, better service than we did at that time.

Q. They didn't seem to think so when they were testifying in this case. You don't think speed has much to do with service, do you?

A. Not necessarily. I think you will find that the merchants and the people generally want regular service, and not fast service. They want regular service.

Q. That is, they would rather have regular slow service than reasonably regular fast service?

A. They would rather have regular service that they can
7267 depend upon, than fast service that they could not depend upon.

Q. It appears by the testimony of Mr. Mohler and Mr. Park that last year—which is not a time that you stated you were suffering from congestion—that you didn't even make your present schedule of 100 hours and 45 minutes. How is that?

A. At times we did not make the schedule; but I think as a general thing we have done very well with the schedule.

Q. What do you call doing very well?

A. Say a train averages along about 4 or 5 hours late; that is doing very good, on a freight train of a thousand miles' run.

Q. So you think if you get the traffic through in 104 or 105 or 106 hours, that is doing pretty well?

A. I think that is doing pretty well; yes, sir.

Q. And you think that is an improvement on getting it through in 66½ hours?

A. I think it is an improvement on getting part of it through in 66½ hours and the balance of it a great deal longer—giving you more regular service, all of your freight.

Q. Well, I am just taking your figures as you gave them here. How long did it take this assistant of yours to get up these figures as to the run on various days?

A. He was working on other work besides that; he was not assigned especially to that work; I suppose it took him nearly two months to get the information I wanted.

Q. You say that this information appears on train sheets?

A. Yes, sir.

Q. Is it one sheet or several?

A. It is one sheet for each district, there being 9 districts.

Q. In what way are they filed?

A. By dates; by days.

Q. All filed together?

7268 A. Yes, sir; each district is kept by itself.

Q. So he would have the nine or ten files in front of him?

A. Yes, sir.

4331

Q. And he would have to select one out from that date?

A. He would have to select a train. Our train leaving Council Bluffs today would appear on the sheet, from North Platte to Sidney, to-morrow, maybe.

Q. Doesn't it appear by number?

A. It would generally appear by number; California Expedited No. 1, or No. 2, or No. 3; but, as I say, some of the dispatchers did not put it on their sheets, and we could not follow them all through.

Q. If you would examine the first sheet and the last, showing the time of leaving Omaha and the time arriving in Ogden, if the number is on, you knowing about the number of days, would that help any, or do you have to look through each one?

A. We naturally look through each one, to connect up each district—the train into the district terminal and out, to see that some one has not made a mistake.

By Mr. LOOMIS.

Q. You said you were giving the merchants of Salt Lake better time than before. I wish you would explain that a little more fully.

A. Before, we handled a very high class freight on No. 53, which had the California and Utah freight; a few high class commodities; and the cars of other commodities, of lower class, were moved on extra trains. Now, we move practically all the Utah freight on the same schedule; there is very little if any freight which is not moved in the California Special at the present time. We run three and four sections of it, when we have the freight to move.

7269 By Mr. SEVERANCE.

Q. As I understand it, at the present time, you do not give any preference to high class freight at all, but you move dead freight just as fast as you do high class freight?

A. We give preference to high class freight; but practically all of it now we say is high class freight. We have very little dead freight—coal and lumber and grain, something like that. Then we use that freight to fill out our high class freight trains with. If we have not enough of the high class freight to make a good train, we will fill it with the other freight, and it gets just as good service as the high class freight.

Q. When you do not have freight enough to fill up a train, do you hold it for the next day?

A. We hold it for the next day; yes, sir.

Q. So as to be sure to get a full train load?

A. Yes, sir.

Q. That is in the interest of economy in operation, purely and simply, isn't it?

A. Also in the interest of economy in operation and economy in the movement of freight.

Q. That is what I mean—economy in the movement of freight.

A. Yes.

Q. If a merchant in Salt Lake City, we will say, orders freight from Chicago, and that gets over to Omaha and you have not got freight enough to fill a train, and you hold his freight until the next day, that day is lost to him; you don't hold it for his benefit, but for your own; isn't that true?

A. You would not expect, and he would not expect us to run a train with his one car of freight or three cars of freight. He would want us to run a train with a reasonable number of cars of freight.

Q. Well, suppose it was 20.

A. 20 cars of freight—the prospects are that we would
7270 arrange to get that freight out; in fact I know we would. We would use empty fruit cars to help out with, or other freight lying around. Give us a reasonable number of cars, and we will run them out of Council Bluffs as soon as we can get them ready.

Q. But you don't send out anything except a whole train, if you can help it?

A. No, sir.

Q. Because that is economical railroading, isn't it?

A. Yes, sir.

By Mr. LOOMIS.

Q. How about the schedule trains? Do they leave terminals every day?

A. The schedule train leaves terminals every day, and practically on time every day.

Q. So you do not hold your schedule trains, waiting for freight to fill them up with?

A. No, sir.

Q. What trains did you refer to in answer to Mr. Severance?

A. The sections of the regular train.

Q. The additional sections?

A. The additional sections: yes sir.

7271 JAMES P. O'BRIEN,

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination by Mr. LOOMIS.

Q. Please state your name, residence, and occupation?

A. James P. O'Brien; residence, Portland Oregon; vice-president and general manager of the O. R. & N. Company, and general manager of the Southern Pacific lines in Oregon.

Q. How long have you been vice-president and general manager of the O. R. & N.?

A. About 5 years.

Q. How long have you been connected with that company all together?

A. About 17 years.

Q. Have you had some statements made up, showing betterments made on the O. R. & N. since 1897 or thereabouts?

A. I have got them from 1901 to 1909; yes, sir.

Q. I call your attention to a statement headed "The Oregon Railroad & Navigation Company. Statement of Expenditures for Additions, Betterments, and Improvements. From July 1st, 1900, to June 30th, 1909 (as per details on sheets marked A.)" I will ask you if that is a correct statement of what it purports to show on its face?

A. Yes, sir.

Q. Will you please give the total amount of this statement?

A. The total amount is $13,494,979.59.

The statement referred to by the witness was marked Defendants' Exhibit 154 (O'Brien), was offered in evidence by the defendants, and is as follows:

7272 DEFENDANTS' EXHIBIT 154.

(O'Brien.)

THE OREGON RAILROAD & NAVIGATION COMPANY.

Statement of expenditures for additions, betterments and improvements, from July 1st, 1900, to June 30th, 1909 (as per details on sheet marked A).

Class of work.	Amount.	Details shown on—
Rail renewals	$1,583,306.71	A–2 and 3
Ballasting	495,159.35	A-4
Tie plates	264,910.84	A-4
Bridges and trestles	2,280,407.66	A-7
Automatic block signals	373,933.06	A-5
Oil plants	98,564.36	A-5
Track scales	17,518.69	A-5
Turntables	72,231.35	A-4
Changes of line	2,017,821.31	A-6
Fencing	112,414.45	A-5
Side tracks	596,021.25	A-4
Buildings	673,765.29	
Water supply	134,017.83	
Miscellaneous	107,745.29	
Locomotives	1,437,656.24	A-8
Passenger cars	458,153.71	A-8
Work equipment	285,401.67	A-8
Freight equipment	2,485,950.53	A-9
Total	13,494,979.59	

Sh. No. A–1.

7273 Q. I will ask you to examine statement headed "Renewal of Rails, Main Line," with a statement at the bottom reading as follows: "Sheet No. A–2." I will ask you if that is the exhibit of

details referred to on the statement just introduced in evidence marked Defendants' Exhibit 154 (O'Brien)?

A. Yes, sir.

Q. I will ask you if this is a correct statement of what it purports to show upon its face?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 155 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 155.

(O'Brien.)

THE OREGON RAILROAD & NAVIGATION CO.

Renewal of rails, main line.

	Composition of track.		Comparison.	
	Miles as of July 1, 1900.	Miles as of June 30, 1909.	Increase.	Decrease.
Iron rail	0	0	.....	.....
Steel rail:				
60-pound and under	340.85	0.14	.....	340.71
62-pound	0	0	.....	.....
70-pound	56.07	29.07	.....	27.00
75-pound	213.14	406.69	193.55	.....
80-pound	0	214.00	214.00	.....
85-pound	37.88	32.39	.....	4.49
90-pound	0	16.33	16.33	.....
Total	647.94	698.62	423.88	372.75

7274 Summarizing, during the period covered mileage of rail of weight less than 75 lbs. per yard was decreased 367.71, while mileage of rail of weight 75 lbs. per yard and over was increased 418.39. Total cost of improvement $1,422,721.62.

NOTE.—The total mileage of main line increased 50.68 because mileage of branch from East Portland to Albina, Ore., and from Winona to Seltice, Wash., changed to main line.

Sheet No. A–2.

Q. I call your attention to the statement headed "Renewals of Rails, Branches," with a notation upon the lower righthand corner reading "Sheet No. A–3." I will ask you if this statement is one of the details referred to in Defendants' Exhibit 154, opposite the words "Rail Renewals."

A. Yes, sir.

Q. Is this statement a correct statement of what it purports to show upon its face?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 156 (O'Brien), was offered in evidence by the defendants, and is as follows:

7275

DEFENDANTS' EXHIBIT 156.

(O'Brien.)

THE OREGON RAILROAD & NAVIGATION CO.

Renewals of rails, branches.

	Composition of track.		Comparison.	
	Miles as of July 1, 1900.	Miles as of June 30, 1909.	Increase.	Decrease.
Iron rail	144.81	27.48	.....	116.33
Steel rail:				
60-pound and under	337.56	574.19	236.63	.....
62-pound	0	21.52	21.52	.....
75-pound	.19	5.19	5.00	.....
Total	482.46	628.38	263.15	116.33

Of the 263.15 miles increase in rail weighing 60 lbs., per yard and over, shown above, approximately 169 miles is the result of new branch lines built or acquired since July 1st, 1900, as shown below.

New branch lines built or acquired	219
Branch mileage changed to main line	50
Net gain, branch mileage	169

leaving the balance of 94.15 miles which has been relaid with steel rail 60 lbs. per yard or over, replacing old iron rail, at a cost of $160,585.09.

SUMMARY SHEETS A–2 AND 3.

Summarizing, on both main line and branches there has been laid a total of 512.54 miles of rail replacing rail of lighter pattern at a grand total cost of $1,583,306.71.

Sheet No. A–3.

7276 Q. Calling your attention to statement headed "Side Tracks," with a notation in the lower right-hand corner "Sheet No. A–4," I will ask you if this is one of the details referred to in Defendants' Exhibit 154, opposite the word "Ballasting."

A. Yes, sir.

Q. This is a correct statement of what it purports to show upon its face?

A. Yes. There are two other items upon that exhibit.

Q. In addition to "Side Tracks" this statement includes "Ballasting," "Tie Plates" and "Turntables;" is that correct?

A. Yes.

The statement last referred to by the witness was marked Defendants' Exhibit 157 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 157.

(O'Brien.)

THE OREGON RAILROAD & NAVIGATION COMPANY.

Side tracks.

	Miles laid.	Miles taken up.	Net increase (miles).	Total sidings (miles).	Total cost.
July 1st, 1900				176.99	
Period, July 1st, 1900, to June 30th, 1909	107.10	30.22	76.88		$596,021.25
June 30th, 1909				253.87	
Increase	107.10	30.22	76.88	76.88	$596,021.25

7277

Ballasting.

	Miles ballasted.			Total cost.
	Gravel.	Rock.	Total.	
July 1st, 1900	268.68	8.30	276.98	
June 30th, 1909	441.00	70.85	511.85	
Increase	172.32	62.55	234.87	$495,159.35

Tie Plates.

	Number tie plates.	Continuous miles track.	Total cost.
July 1st, 1900	185,986	41.72	
June 30th, 1909	2,529,115	509.75	
	2,343,129	468.03	$264,910.84

TURNTABLES.

Eight (8) steel and six (6) iron turntables were erected at various points during the period July 1st, 1900, to June 30th, 1909, inclusive, at a total cost of $72,231.35.

Sheet No. A–4.

Q. Calling your attention to statement headed "Automatic Block Signals" with a notation in the lower right-hand corner "Sheet No. A–5," I will ask you if this is one of the details referred to in Defendants' Exhibit 154, and if it includes the automatic block signals, fuel oil plants, track scales and fencing referred to in Defendants' Exhibit 154 (O'Brien).

A. Yes, sir.

Q. Is that a correct statement?

A. Yes, sir.

7278 The statement last referred to by the witness was marked Defendants' Exhibit 158 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 158.

(O'Brien.)

THE OREGON RAILROAD & NAVIGATION COMPANY.

Automatic block signals.

	Number of signals.	Miles of continuous signals.	
July 1st, 1900	0	0	
June 30th, 1909	656	408	
Increase	656	408	Cost, $373,933.06.

NOTE.—In addition to the 408 miles of continuous signalling, there are also a number of individual stations protected by signals.

FUEL OIL PLANTS.

Modern fuel oil plants have been installed at the following points since July 1st, 1900:

Location.	Cost.
The Dalles, Oregon	$19,641.99
Arlington, "	8,331.28
Albina, "	12,705.40
Heppner, "	11,343.83
Umatilla, "	11,002.49
St. Johns, "	35,539.37
Total	$98,564.36

TRACK SCALES.

Modern track scales have been erected as follows since July 1st, 1900:

7279	Tekoa, Wash	$1,295.94
	LaGrande, Oregon	1,765.24
	Wallace, Idaho	1,778.78
	Bridal Veil, Oregon	1,976.77
	Hecla Mine, Idaho	693.47
	Gem, Idaho	2,985.23
	Albina, Oregon	4,430.75
	Spokane, Wash	2,592.51
	Total	$17,518.69

Fencing.

	Miles single fence	Total cost fence.
July 1st, 1900	$1,461.58	.....
July 1st, 1909	2,193.78	.....
Increase	732.20	$112,414.45

Sheet No. A–5.

Q. Calling attention to statement headed "Statement of Improvements and Betterments, from July 1st, 1900, to June 30th, 1909, Changes of Line," with the notation in the lower right-hand corner "Sheet No. A–6," I will ask you if this is one of the details referred to in Exhibit 154 (O'Brien) opposite the words "Changes of Line?"

A. Yes, sir.

Q. Is it a correct statement?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 159 (O'Brien); was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 159.

(O'Brien.)

THE OREGON RAILROAD & NAVIGATION COMPANY.

Statement of improvements and betterments from July 1st, 1900, to June 30th, 1909.

CHANGES OF LINE.

		Length.	Saving in—			1900–1901.	1901–1902.	1902–1903.	1903–1904.	1904–1905.	1905–1906.	1906–1907.	1907–1908.	1908–9.	Grand total.
			Dist.	Curvature.	Rise & fall.										
		Miles.	*Miles.*	*Degrees.*	*Feet.*										
Shell Rock	M. P. 53.8–56.7	2.84	.12	599	Same.	•17,328.30	5,439.83								22,768.13
Viento-Hood Riv.	" 58.3–65.6	7.33	.14	510	"	•14,997.95									14,097.95
Latourelle	" 26–27	.55	.03	47	"	• 653.90									653.90
Big Cut	" 115	.59	.01	97	"	•12,232.46									12,232.46
New Tunnel	" 66.7–72.2	5.49	.19	855	Not radical.	186,415.83	27,750.29	5,786.07							219,992.19
Tunnel No. 2	" 74.4–74.6	.22	.01	29		16,041.51	2,210.15	56.64							18,308.30
Tunnel No. 3	" 74.7–77.1	2.41	.16	410		95,645.64	2,523.93	4,068.09							102,237.66
Canyon	" 308½–308¾	.60	.00	‡11	"	18,953.22	21,990.94	74.84							41,019.00
Echo-Yoakum	" 207–216	6.97	.29	806	"	106,745.54	49,371.68	**1,706.65**							154,410.57
Rowena	" 78.4–85.6	6.97	.19	903	61	4,847.14	310,703.81	**15,804.20**							299,746.75
Herman Or.	" 45.1–48.6	2.50	.....	384	Same.	•1,392.62									1,392.52
Cascade Locks	" 48.7–50.2	.34	.....	8	"	•845.45									1,025.04
Wyeth	" 50.3–53.8	3.54	.02	373	"	•1,676.90			97.17		82.42				1,676.90
Mosier	" 72¼–73¼	1.00	.....	97	"	•1,856.70									1,856.70
Bridal Veil	" 28.1–28.7	.59	.01	60	"	.....	19,869.34	**895.11**							18,974.23
Dalles-Celilo		.....	.....	111	"	.....	.....	1,030.66	.....	62.91					1,093.57
Mica	" 434–436	.28	.01	38	"	.....	.....	.....	.....	62.49	304.61	41.73			468.83
Freeman		.90	.01	23	"	.....	.....	.....	.....	84.26	1,494.26	2,280.19			3,858.71
Hood River	66–68	.40	.61	40	4	.....	.....	.....	.....	.....	490.92	63,632.95	17,110.07	331.26	81,565.20
Summit		1.40	.01	99	78	.....	.....	.....	.....	.....	.....	•22,675.30	11,612.78	305.99	34,494.07
Pendleton	" 229–231	.82	.08	110	Same.	.....	.....	.....	.....	.....	.....	56,989.85	14,437.75	1,349.94	72,777.54
Bonneville-Trout	" 18–42	17.48	.18	1,455	19	.....	.....	.....	.....	.....	.....	239,113.70	379,555.82	291,823.72	910,493.24
Minor changes	Various places.	.34	.....	137	Same.	•1,393.13	.....	.....	.....	1,284.72	.....	.....	.....	.....	2,677.85
Total		63.56	2.06	7,180	162	480,125.19	439,899.97	**7,389.66**	97.17	1,494.38	2,432.21	384,733.72	422,716.42	293,710.91	2,017,821.31

‡ Increase.

• Work commenced prior to current year.

$11,490.51 paid by State not included.

Sheet No. A–6.

7281 Q. Referring to a statement headed "New Steel Bridges erected and Wooden Structures replaced by Steel Structures or Embankment, July 1st, 1900–June 30th, 1909," with the notation in the lower right-hand corner "Sheet No. A–7," is this one of the details referred to in Defendants' Exhibit 154 opposite the words "Bridges and Trestles"?

A. Yes, sir.

Q. Is it a correct statement?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 160 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 160

(O'Brien)

THE OREGON RAILROAD & NAVIGATION COMPANY.

New steel bridges erected and wooden structures replaced by steel structures or embankment, July 1st, 1900–June 30th, 1909.

49,740 lin. feet or 9.4 miles of trestles were replaced by embankment.

5,006 lin. feet or 0.9 miles of trestles were replaced by steel structures.

3,289 lin. feet or 0.6 miles of Howe and Comb. trusses were replaced by steel structures.

1,365 lin. feet or 0.3 miles of steel bridges were replaced by steel structures of heavier design.

Material used in filling trestles, 2,046,119 cu. yds.

Masonry used in filling bridges and building bridge piers and abutments, 58,705 cu. yds.

Total cost of improvements named above, $2,280,407.66.

Sheet No. A–7

7282 Q. Calling attention to a statement headed "Locomotive Equipment," also including "Passenger Cars" and "Work Equipment," with the notation in the lower right-hand corner "Sheet No. A–8" I will ask you if this is one of the details referred to in Defendants' Exhibit 154, opposite the words "Locomotives", "Passenger Cars" and "Work Equipment."

A. Yes, sir.

Q. Is it a correct statement?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 161 (O'Brien), was offered in evidence by the Defendants, and is as follows:

DEFENDANTS' EXHIBIT 161

(O'Brien)

THE OREGON RAILROAD & NAVIGATION COMPANY

Locomotive equipment.

	Locomotives owned.		Tractive power (pounds).	
	Number.	Value.	Total.	Average per locomotive.
July 1st, 1900	114	$648,183.29	1,986,129	17,422
June 30th, 1909	177	2,085,839.53	5,024,921	28,389
Increase	63	1,437,656.24	3,038,792	10,967

NOTE.—During the period 96 new locomotives were acquired for which $1,542,156.24 was expended; 33 old small locomotives were disposed of from which $104,500.00 was realized, leaving a net gain of 63 locomotives at a net outlay of $1,437,656.24.

7283

Passenger cars.

	Acquired.		Disposed of.		Net gains.		On hand.	
	No.	Cost.	No.	Realized.	No.	Cost.	No.	Cost.
July 1st, 1900							80	$368,655.10
Period July 1st, 1900, to June 30th, 1909	56	$476,903.71	7	$18,750	49	$458,153.71		
June 30th, 1909							129	826,808.90
Increase							49	458,153.70

WORK EQUIPMENT.

On June 30th, 1900, there were 404 pieces of work equipment owned, representing a value of $151,699.88: while the number of pieces on June 30th, 1909, was 697, representing a value of $437,001.55. Net gain for period 293 pieces at total cost of $285,401.67.

Sheet No. A–8.

Q. I call your attention to a statement headed "Freight Equipment", with the notation in the lower right-hand corner "Sheet No. A–9." Please state if this is one of the details referred to in Defendants' Exhibit 154, opposite the words "Freight Equipment."

A. Yes, sir.

Q. Is it a correct statement?

A. Yes, sir.

7284 The statement referred to by the witness was marked Defendants' Exhibit 162 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 162.

(O'Brien)

THE OREGON RAILROAD & NAVIGATION COMPANY

Freight equipment.

	Number of cars.		Comparison, number of cars.	
	July 1st, 1900.	July 1st, 1909.	Increase.	Decrease.
Tons capacity:				
20 or under	1,578	716	.....	862
25	885	631	.....	254
30	84	98	14	.....
40	0	200	200	.....
50	0	2,710	2,710	.....
Total	2,547	4,355	1,808	.....
Aggregate capacity (tons)	53,514	176,305	122,791	.....
Average capacity (tons)	21.01	40.48	19.47	.....
Value of cars owned	$824,537.40	$3,310,487.93	$2,485,950.53	.....

Sheet No. A–9

7285 Q. Have you caused a statement to be made of expenditures for additions, betterments, and improvements made upon the Oregon Railroad & Navigation Company's lines from July 1, 1909, to November 30, 1909?

A. Yes, sir.

Q. What is the amount of the expenditures, as shown in that statement?

A. A total of $768,864.96.

Q. Is that a correct statement?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 163 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 163.

(O'Brien.)

THE OREGON RAILROAD & NAVIGATION COMPANY.

Statement of expenditures for additions, betterments, and improvements, from July 1st, 1909, to November 30th, 1909.

Class of work.	Amount.
Rail renewals	$45,571.22
Ballasting	52,071.26
Bridges and trestles	21,982.87
Buildings	41,348.84
Locomotives	98,266.97
Passenger cars	38,904.00
Freight cars	360,202.12
Total	768,864.96

7286 Q. Did you cause a statement to be made of important new work started and now under way, dating from November 30, 1909, giving the class of work and estimated cost?

A. Yes, sir.

Q. What is the total amount of the estimated cost as shown by this statement?

A. $8,247,861.54.

Q. Is that a correct statement?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 164 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 164

(O'Brien)

THE OREGON RAILROAD & NAVIGATION COMPANY

Statement of important new work started and now under way dating from Nov. 30th, 1909.

Class of work.	Estimated cost.
Block signals	$29,600.00
Steel bridges	243,298.09
Willamette River bridge, Portland	1,291,699.00
New Line—Coyote to Echo (26 miles)	707,946.25
" " —St. Johns to Troutdale (16 miles)	280,651.90
Change of line, Yoakum to Pendleton (16 miles)	779,166.19
" " " The Dalles to DesChutes (16 miles)	242,588.00
Second main track, The Dalles to DesChutes "	292,992.00
New Passing Tracks	108,081.14
Rail Renewals	419,823.39
Gasoline Motor Cars	41,010.00
Shop Tools	26,324.39
New Line—DesChutes Railroad (133 miles)	3,749,181.19
Pendleton, Oregon, New Passenger Depot	17,500.00
Baker City, Oregon, New Passenger Depot	18,000.00
Total	$8,247,861.54

7287 Q. Did you cause a statement to be made of new lines constructed and now under way, July 1, 1900, to January 1, 1910, with mileage and the amount expended?

A. Yes, sir.

Q. What is the total amount of expenditures as shown by this statement?

A. $4,742,220.25.

Q. Is that a correct statement?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 165 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 165

(O'Brien)

THE OREGON RAILROAD & NAVIGATION COMPANY

Statement of new lines constructed and now under way, July 1st, 1900, to January 1st, 1910.

Line.	Mileage.	Expended
Elgin Extension—Elgin to Joseph, Ore	62.83	$1,762,766.08
Umatilla Central R. R.—Pendleton to Pilot Rock, Ore	14.21	300,126.72
Lake Creek & Coeur d'Alene R. R., Lake Junction, Wash., to Farmington Ldg	14.28	566,003.57
Albina to St. Johns, Ore	5.10	139,302.95
Col. Riv. & Ore. Cent. R. R.—Arlington to Condon, Ore	45.31	722,825.74
Extension, St. Johns to Maegley Jct., Ore	3.79	103,509.07
Extension, St. Johns to Troutdale (under construction; proposed length 16.21.)	.....	127,344.97
DesChutes R. R.—DesChutes to Redmond, Ore. (under construction; proposed length 133 miles.)	4.09	969,053.15
Albina—double tracking work	1.25	51,288.00
Total	.....	$4,742,220.25

7288 Q. I will ask you if you have caused to be prepared statistics of freight and passenger traffic moved on the Oregon Railroad & Navigation Company's lines, for the year 1900, compared with the year 1909?

A. Yes, sir.

Q. Is that a correct statement?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 166, (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 166

(O'Brien)

THE OREGON RAILROAD & NAVIGATION COMPANY

Statistics of freight and passenger traffic moved year 1900 compared with year 1909.

	1900	1909	Per cent	
			Inc.	Dec
Freight Traffic:				
Tons carried	1,722,902	3,644,193	112	.....
Tons carried one mile	338,429,897	659,380,815	95	.....
Freight and mixed train mileage	1,137,686	1,508,174	32	.....
Passenger traffic:				
Passengers carried	643,124	1,431,707	123	.....
Passengers carried one mile	58,034,786	133,488,037	130	.....
Passenger train mileage	1,119,923	1,603,089	43	.....

7289 Q. Have you caused a statement to be prepared showing the through average consist of passenger trains on the Oregon Railroad & Navigation Company, January 1, 1900, to January 1, 1910?

A. Yes, sir.

Q. Is that a correct statement?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 167 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 167

(O'Brien)

THE OREGON RAILROAD & NAVIGATION COMPANY

Average consist of through passenger trains, January 1st, 1900, to Jan. 1st, 1910.

Date	Number passr. trains run per day	Average number cars per train, each class.							
		Mail	Bagg. Expr.	Tourist	Chair	Coach	Dining	Sleepers	Observ.
January, 1900	4	4	4	4	4	6	2	8	.....
January, 1901	6	4	6	6	6	6	4	8	.....
January, 1909	6	5	5	5	6	6	6	9	2
January, 1910	10	9	8	8	3	10	6	9	6

Q. Have you photographs showing the type of bridges which are now being erected by the Oregon Railroad & Navigation Company?

A. Yes, sir, I have six photographs.

Q. Of what particular bridges?

7290 A. Bridge No. 16, across the Sandy River, 510 feet long; bridge 122, across the Hood River, 360 feet long; bridge 196, across the John Day River, 400 feet long; bridge R-14, across the Umatilla River, 300 feet long; bridge R-30, across the Umatilla River, 150 feet long; bridge across the Umatilla River at Pilot Rock Junction, 300 feet long.

Q. Have you a list of the new steel bridges you have erected on the Oregon Railroad & Navigation during the time those statements cover?

A. No; I have not.

Q. Can you state about the number?

A. No; I could not attempt to say. I should judge there were at least forty. One of the exhibits will show the number of new steel bridges in feet; it has just gone in.

Q. Are you using oil as a fuel on the O. R. & N. lines now?

A. Part of the lines; the lines from Portland to Umatilla burn the oil.

Q. Have you some photographs typical of the oil stations you are erecting on the lines of your company?

A. I have. Here is a photograph of the oil plant at St. Johns and at The Dalles.

Q. What is the storage capacity of those plants?

A. The storage capacity at the St. Johns plant is 55,000 barrels; at The Dalles plant the storage tank has a capacity of 30,000 barrels; and the gravity tank from which the locomotives are oiled has a capacity of 28,500 gallons.

Q. How many oil storage plants have been erected during the time covered by these statements?

A. Six on the O. R. & N.

The photographs produced by the witness were marked, respectively, Defendants' Exhibits 168, 169, 170, 171, 172, 173, 174 and 175

7291 (O'Brien), and were offered in evidence, subject to the same stipulation heretofore made with reference to other photographs.

Q. Have you photographs typical of the type of passenger stations you are now erecting on the lines of the O. R. & N. Company?

A. I have a photograph of the new passenger station at Spokane; I cannot say that that is a type of the other stations that we are erecting, because Spokane is entitled to a much better station and a much larger station than any other point on our line where we are putting in new stations.

Q. When was this station erected?

A. About two years ago.

Q. Can you give the cost?

A. About $55,000.

The photograph last referred to by the witness was marked Defendants' Exhibit 176 (O'Brien), was offered in evidence by the defendants and received subject to the same stipulation heretofore made with reference to the other photographs.

7292 Q. I believe you also stated that you also had charge of the Southern Pacific lines in Oregon?

A. Yes, sir; general manager of the lines in Oregon.

Q. I will ask you if you have caused to be prepared a statement of expenditures for additions, betterments and improvements on lines of the Southern Pacific Company in Oregon, from July 1, 1904, to June 30, 1909, as per details on sheet marked B.?

A. Yes, sir.

Q. Please give the total amount of those expenditures as shown by this statement.

A. The total expenditure amounts to $4,213,660.

Q. I will ask you if that statement is correct?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 177 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 177.

(O'Brien)

SOUTHERN PACIFIC COMPANY

Lines in Oregon

Statement of expenditures for additions, betterments and improvements from July 1st, 1904, to June 30, 1909 (as per details on sheets marked B).

Class of work.	Amount.	Details shown on.
Rail renewals	$663,626.27	B-2
Ballasting	230,220.31	B-3
Tie plates	75,000.00	B-3
Bridges and trestles	1,251,173.45	B-4
Automatic block signals	120,988.48	B-5
7293 Fuel oil plants	105,015.88	B-5
Track scales	6,206.82	B-5
Turntables	31,443.53	B-6
Fencing	3,552.09	B-7
Side tracks	144,252.36	B-7
Buildings and miscellaneous	334,510.26	.....
New equipment purchased	1,247,670.55	B-8
Total	$4,213,660.00	

Q. Calling your attention to a statement showing mileage of the different weights of steel rails in the track on July 1st, 1904, as com-

pared with June 30th, 1909, lines of the Southern Pacific Company in Oregon, upon which statement in the lower right hand corner is the following notation: "Sheet No. B–2," is this sheet one of the details referred to in Defendants' Exhibit 177 under the words "Rail Renewals"?

A. Yes, sir.

Q. And is it a correct statement?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 178, was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 178.

(O'Brien)

SOUTHERN PACIFIC COMPANY

Lines in Oregon

Statement showing mileage of the different weights of steel rails in the track on July 1st, 1904, as compared with June 30th, 1909.

7294 Weight steel (lb. per yd.).	Miles July 1, 1904.	Miles June 30, 1909.	Comparison.		Total cost of improvement.
			Inc.	Dec.	
40-pound	10.699	8.058	.....	2.641	.....
50 "	96.783	73.792	.....	22.991	.....
56 "	227.840	27.829	.....	200.011	.....
60 "	2.581	3.331	.750	.....	.....
62 "	298.700	140.433	.....	157.267	.....
75 "	5.500	188.923	183.423	.....	.....
80 "	1.188	196.615	195.423	.....	.....
Total	643.291	638.981	.....	*4.310	$663,626.27

* Net loss of 4.310 miles was due to the construction of LaFayette-St. Joseph cut-off, which permitted the abandonment of about 8 miles of track between LaFayette and Whiteson, Oregon.

Sheet No. B–2.

Q. Will you please explain why in the statements as to the Southern Pacific Company improvements you started from July 1, 1904, while in the Oregon Railroad & Navigation Company's statement you started at an earlier date?

A. All the records and statistics of the Southern Pacific lines in Oregon are kept in San Francisco by the auditing department; and the records were destroyed in the fire of 1906. This information, however, as far as the rail, we were able to secure from the division engineer's accounts, who is located at Portland; and for that reason we got back as far as 1904.

Q. Referring to the statement headed "Ballasting," including also the item of "Tie Plates," and bearing in the lower right hand

7295 corner the statement "Sheet No. B-3,", please state if this is one of the details referred to in Defendants' Exhibit 177, after the words "Ballasting" and "Tie Plates?"

A. Yes.

Q. Is it a correct statement?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 179 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 179.

(O'Brien)

SOUTHERN PACIFIC COMPANY

Lines in Oregon

Ballasting

	Miles Ballasted.	Increase.	Total Cost of Improvement.
July 1st, 1904	127.702		
June 30th, 1909	205.950	78.248	$230,220.31

Tie plates

	Number Tie-Plates.	Continuous Miles Track.	Total Cost of Improvement.
July 1st, 1904	1,762,494	304.36	
June 30th, 1909	2,212,494	366.79	
Increase	450,000	62.43	$75,000.00

Sheet No. B-3.

Q. Calling your attention to statement headed "New Steel Bridges erected and Wooden structures replaced by steel structures or embankment July 1st, 1904–June 30th, 1909," with the following words noted in the lower right hand corner, "Sheet No. B-3," is this one of the details referred to in Defendants' Exhibit 177, after the words "Bridges and Trestles"?

A. Yes, sir.

Q. Is it a correct statement?

A. Yes, sir.

7296 The statement last referred to by the witness was marked Defendants' Exhibit 180 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 180.

(O'Brien.)

SOUTHERN PACIFIC COMPANY

Lines in Oregon

New steel bridges erected and wooden structures replaced by steel structures or embankment July 1st, 1904–June 30th, 1909

19.170 lin. feet of pile and frame trestles or 3.63 miles have been filled, requiring 1,441,260 cu. yds. material at a cost of $232,538.22.

6,840 lin. feet of wooden trestles and Howe & Comb. truss bridges, or 1.3 miles, have been replaced by modern steel structures, at a cost of $1,018,635.23.

Number of iron and steel bridges existing on July 1st, 1904, eleven; on July 1st, 1909, thirty-nine.

Total cost of bridge work during period, $1,251,173.45.

Sheet No. B–3.

Q. Referring to statement headed "Automatic Block Signals," and containing also the items "Fuel Oil Plants" and "Track Scales," and bearing in the lower right-hand corner the statement "Sheet No. B–5," please state whether this is one of the details referred to in Defendants' Exhibit 177, after the words "Automatic Block Signals," "Fuel Oil Plants" and "Track Scales."

A. Yes, sir.

Q. Is it a correct statement?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exihibt 181 (O'Brien), was offered in evidence by the defendants, and is as follows:

7297

DEFENDANTS' EXHIBIT 181.

(O'Brien)

SOUTHERN PACIFIC COMPANY

Lines in Oregon.

Automatic block signals

	Number of signals.	Miles of continuous signals.	Cost.
July 1st, 1904	2	.....	.....
July 1st, 1909	209	51.90	.....
Increase	207	51.90	$120,988.48

NOTE.—In addition to the 51.90 miles of continuous signalling, there are also a number of individual stations protected by signals.

FUEL OIL PLANTS

Modern fuel oil plants have been installed at the following points; since July 1st, 1904:

Location.	Cost.
Woodburn, Oregon	$9,609.68
Springfield, "	11,105.82
Albany, "	9,693.08
Glendale, "	17,064.10
Junction City, "	17,336.57
Roseburg, "	18,514.65
St. Joseph, "	15,445.02
East Portland, "	6,246.96
Total	105,015.88

TRACK SCALES

Modern track scales have been erected as follows since July 1st, 1904:

East Portland, Oregon	1,871.78
Albany, Oregon	1,493.54
Springfield, Oregon	1,764.86
Roseburg, "	1,076.64
Total	6,206.82

Sheet No. B–5.

7298 Q. Calling your attention to statement headed "Turntables," bearing the following notation in the lower right hand corner "Sheet No. B–6," is this one of the details referred to in Defendants' Exhibit 177 after the word "Turntables?"

A. Yes, sir.

Q. Is it a correct statement?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 182 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 182.

(O'Brien)

SOUTHERN PACIFIC COMPANY

Lines in Oregon

Turntables

Turntables have been erected at the following stations since July 1st, 1904:

Location.	Cost.
West Fork, Oregon	$3,793.13
Roseburg, "	6,017.93
Springfield, "	671.95
Forest Grove, "	299.17
Eugene, "	688.56
Glendale, "	5,409.49
Junction City, "	4,051.50
Rice Hill, "	7,766.75
Corvallis, "	2,172.57
Junction City, "	572.48
Total cost	31,443.53

Sheet No. B-6.

Q. Referring to statement headed "Fencing and Cattle Guards," and bearing the item "Sidetracks," as well, and a notation in the lower right hand corner "Sheet No. B-7," state if this is one of the details referred to in Defendants' Exhibit 177, after the words "Fencing" and "Sidetracks?"

A. Yes, sir.

7299 Q. Is it a correct statement?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 183 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 183.

(O'Brien)

SOUTHERN PACIFIC COMPANY

Lines in Oregon

Fencing and cattle guards

	Miles of Single Fence.	Number of Cattle Guards.	Total Cost.
July 1st, 1904	398.01	.....	.....
June 30th, 1909	405.77	.....	.....
Increase	7.76	53	$3,552.09

Side tracks.

	Miles Laid.	Miles Taken up	Net Increase (Miles)	Total Sidings (Miles)	Cost
July 1st, 1904				90.03	
Period July 1st, '04, to June 30th, 1909	27.25	10.06	17.19		$144,252.36
June 30th, 1909				107.22	
Increase	27.25	10.06	17.19	17.19	$144,252.36

Sheet No. B-7.

Q. Referring to statement headed "Locomotive Equipment," and containing also the items "Passengers Cars" and "Freight Equipment," with the notation in the lower right hand corner "Sheet No. B–8," is this one of the details referred to in Defendants' Exhibit 177 after the words "New Equipment Purchased?"

A. Yes, sir.

7300 Q. Is it a correct statement?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 184 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 184.

(O'Brien)

SOUTHERN PACIFIC COMPANY

Lines in Oregon

LOCOMOTIVE EQUIPMENT

During the fiscal years ending June 30th, 1905, 1906, 1907, 1908 and 1909, there were purchased 44 locomotives at an aggregate cost of $717,223.17.

PASSENGER CARS

During the same period 24 passenger cars were acquired, at an outlay of $267,990.98.

FREIGHT EQUIPMENT

During the five fiscal year periods named above 260 new freight cars were purchased, costing $262,456.40

SUMMARY

The total cost of new equipment purchased during the fiscal years ending June 30th, 1905, 1906, 1907, 1908 and 1909 was $1,247,670.55.

Sheet No. B–8

Q. Have you caused to be prepared a statement of expenditures for additions, betterments and improvements on Southern Pacific lines in Oregon, from July 1, 1909, to November 30, 1909?

A. Yes, sir.

Q. What is the total amount of expenditures made for those purposes?

A. $355,114.04.

7301 Q. As a part of the same statement have you caused to be collated additional information referred to as "Important new work started and now under way," dating from November 30, 1909, with estimated cost and class of work?

A. Yes, sir.

Q. What is the total amount of the estimated cost of these improvements, as shown by this statement?

A. $372,757.59.

Q. Is that a correct statement of what it purports to show upon its face?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 185 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 185.

(O'Brien)

SOUTHERN PACIFIC COMPANY

Lines in Oregon

Statement of expenditures for additions, betterments, and improvements from July 1st, 1909 to November 30th, 1909.

Class of work.	Amount.
Ballasting	$4,507.23
Side tracks	16,109.40
Buildings, Water Tanks, etc	10,268.33
Changes of Line	138,729.08
New Equipment	185,500.00
Total	355,114.04

Statement of important new work started and now under way dating from Nov. 30th, 1909.

Class of work.		Estimated cost.
Rail Renewals		$59,761.81
Gasoline Motor Cars		41,235.00
Fencing		47,820.00
Steel Bridges		53,846.78
Ballasting		69,815.00
New Passenger Depots:		
Medford, Oregon	$25,000.00	
Grants Pass, Ore	18,000.00	
Corvallis, Ore	18,000.00	
7302 Other Buildings		39,279.00
Total		372,757.59

Q. Have you caused to be prepared a statement of new lines constructed and under way, June 30, 1904, to June 30, 1909, by the Southern Pacific Company lines in Oregon?

A. Yes, sir.

Q. What is the total amount of expenditures as shown by this statement?

A. $2,785,121.09.

Q. Is that a correct statement?

A. Yes, sir.

Q. To be sure that I have asked as to the correctness of each and every one of these statements, I will ask you the general question now—are all of these statements that you have identified and which have heretofore been offered in evidence correct?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 186 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 186.

(O'Brien)

SOUTHERN PACIFIC COMPANY

Lines in Oregon.

Statement of new lines constructed and under way June 30th, 1904, to June 30th, 1909.

	Mileage.	Amount.
Beaverton & Willsburg R. R.	10.55	$795,498.06
Springfield-Henderson cut-off	1.13	171,682.90
LaFayette-St. Joseph cut-off	2.33	46,740.18
Crabtree-Labanon cut-off	.....	[a] 290,792.60
7303 Pacific Railway & Navigation Co. line, Hillsboro to Tillamook, Ore.	90.74	[a] 1,480,407.35
Total	.....	2,785,121.09

[a] Estimated total cost.

Q. Have you caused to be prepared a statement showing average consist of through passenger trains on Southern Pacific Company lines in Oregon, January 1, 1900, to January 1, 1910?

A. Yes, sir.

Q. Is that statement a correct one?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 187, (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 187.

(O'Brien.)

SOUTHERN PACIFIC COMPANY

Lines in Oregon.

Average consist of through passenger trains Jany. 1st, 1900 to Jany. 1st, 1910.

Date	Avg. No. passr. trains per day	Average number cars per train of each class							
		Mail	Bagg. expr.	Tour-ist	Chair	Coach	Dining	Sleeper	Observ.
January, 1900	4	4	7	6	.....	10	2	6	.....
January, 1901	4	4	6	8	.....	10	.....	6	.....
January, 1909	4	3	9	6	6	4	1	12	2
January, 1910	6	4	10	6	4	6	6	16	2

Q. Have you caused to be prepared a statement of statistics of freight and passenger traffic moved in the year 1900 compared with the year 1909, on the Southern Pacific Company lines in
7304 Oregon?

A. Yes, sir.

Q. Is it a correct statement?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants Exhibit 188 (O'Brien), offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 188.

(O'Brien)

SOUTHERN PACIFIC COMPANY

Lines in Oregon

Statistics of freight and passenger traffic moved year 1900 compared with year 1909.

	1900.	1909.	Per cent.	
			Inc.	Dec.
Freight Traffic:				
Tons carried	754,768	1,458,665	93	.....
Tons carried one mile	132,142,241	243,614,463	84	.....
Freight and mixed train miles	1,240,512	792,694	.....	36
Passenger Traffic:				
Passengers carried	721,853	1,932,064	168	.....
Passengers carried one mile	48,829,969	117,934,081	142	.....
Passenger train miles	786,368	1,360,152	73	.....

Q. Defendants' Exhibits 187 and 188 contain information going back to the year 1900. Will you explain how you were able to obtain this information so far back?

A. The conditions were exactly the same as I stated before: that the statistics of the Southern Pacific are handled by the auditor, at San Francisco; and we were unable to get the information
7305 from him back of 1906, on account of the fire destroying the records, so we went back in our records and got this information. Back to 1900 there were monthly reports made by the auditor to the general manager.

Q. Have you with you some photographs showing the difficulties of bridge filling work being done by the Southern Pacific in Oregon?

A. Yes, sir. I have three photographs of a large structure known as bridge No. 495A erected near Leland, Oregon. This shows the old bridge and wooden structure.

The photograph last referred to by the witness was marked Defendants Exhibit 189 (O'Brien).

Q. Produce the next photograph and have it marked.

A. The next photograph is the same bridge after it was filled.

The photograph last referred to was marked Defendants' Exhibit 190 (O'Brien).

WITNESS. The third photograph is a side view of the masonry culvert placed under the fill for drainage purposes.

The photograph last referred to by the witness was marked Defendants' Exhibit 191 (O'Brien).

Defendants' Exhibits 189, 190 and 191 (O'Brien) were offered in evidence by defendants and received subject to the same stipulation heretofore made with reference to other photographs.

Q. Have you a set of photographs typical of new bridge construction on the Southern Pacific lines in Oregon?

A. Yes, sir.

Q. How many?

A. Six photographs.

Q. Will you produce them and have them marked by the reporter?

A. One shows Louse Creek crossing; another Grave Creek; another the Santiam River crossing; another is bridge 758G, Clackamas River crossing; another bridge 498E, Wolf Creek cross-
7306 ing; and another bridge 664B, Willamette River crossing, Junction City.

The six photographs last referred to by the witness were marked respectively Defendants Exhibits 192, 193, 194, 195, 196, and 197 (O'Brien), were offered in evidence by the defendants and received subject to the same stipulation heretofore made with reference to other photographs.

Q. Have you caused a statement to be made of other steel bridges built by the Southern Pacific in Oregon, which have replaced frame trestles or lighter metal structures?

A. I have a list of some of the structures; not all of them. I have a list of 20, giving the numbers, location, and length of the structure.

Q. Is it correct as far as it goes?

A. Yes, sir.

The statement last referred to by the witness was marked Defendants' Exhibit 198 (O'Brien), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 198.

(O'Brien)

SOUTHERN PACIFIC COMPANY

Lines in Oregon

Bridge work

In addition to photographs offered for exhibit there have been erected on the Southern Pacific Co-Lines in Oregon many other new modern steel bridges replacing frame trestles or lighter metal structures, among which are the following:

Number.	Location.	Length
458-B	Rogue River	210 feet.
460-B	Sardine creek	90 "
466-C	Evans creek	160 "
510-E	Cow creek	150 "
522-F	Cow creek	180 "
7307 522-I	Cow creek	150 "
551-B	South Umpqua river	420 "
551-F	Myrtle creek	160 "
609-E	Elk creek	140 "
610-A	Pass creek	140 "
612-B	Pass creek	140 "
613-B	Pass creek	125 "
614-I	Pass creek	125 "
626-D	Willamette river	160 "
628-E	Willamette river	150 "
683-B	Calapooia river	145 "
746-E	Mollalla river	360 "
751-B	Parrott creek	200 "
744-F	Pudding river	125 "
766-C	Johnson creek	50 "

Q. Have you some photographs of depots erected by the Southern Pacific in Oregon, which are typical of other depot structures now being put up?

A. I have three photographs that are typical of new depot buildings they are putting up. The first one is at Albany, Oregon. The next one is at East Portland, Oregon; the next at Eugene, Oregon.

The three photographs last referred to by the witness were marked respectively Defendants' Exhibits 199, 200 and 201 (O'Brien), and

were offered in evidence by the defendants and received subject to the same stipulation heretofore made with reference to other photographs.

Q. Does the Southern Pacific Company use fuel oil for its locomotives in Oregon?

A. Yes, sir.

Q. Have you some photographs showing the type of oil stations being erected by the Southern Pacific in Oregon?

A. Yes, sir.

Q. Please produce them.

A. The first photograph is a picture of the storage tank and the gravity tank at Roseburg, Oregon; the next is a photograph of the large storage tank at Glendale, Oregon; the next shows the storage tank at Glendale; also the gravity tank.

7308 The three photographs last referred to by the witness were marked respectively Defendants Exhibits 202, 203 and 204 (O'Brien), were offered in evidence by the defendants and received subject to the same stipulation heretofore made with reference to other photographs.

An adjournment was then taken until the morning of Friday, February 25, 1910, at 10:30 o'clock.

7309 ROOM 720, CUSTOM HOUSE, NEW YORK CITY,
Friday, February 25, 1910, 10:30 a. m.

The hearing was resumed before the Special Examiner, Hon. Sylvester G. Williams, at the above time and place.

Present: On behalf of the Complainant, Mr. C. A. Severance, Mr. Frank B. Kellogg, Mr. G. E. Husted; on behalf of the Defendants, Mr. Peter F. Dunne and Mr. N. H. Loomis.

JAMES P. O'BRIEN,

was recalled as a witness on behalf of the Defendants, and his direct examination resumed as follows:

By Mr. LOOMIS.

Q. Since leaving the stand last evening I will ask if in checking up the statement marked Defendants' Exhibit 186 you have discovered an error?

A. Yes, sir.

Q. Will you explain what the error is?

A. The figures shown on the original exhibit simply cover the amount of money that was spent on the Pacific Railway & Navigation Company lines, which is shown on the last column.

Q. What should it include to make the statement correct?

A. The total cost of the line is $3,480,407.35; that is the correct figure.

Q. Including what has been spent and what you expect to spend?

A. Yes, sir, to finish up the line.

Q. I will ask you to look at the corrected statement and say if that correctly shows the expenditures made and the expenditures you expect to make in connection with the work therein referred to?

A. It does.

Mr. LOOMIS. The corrected statement just referred to is marked Defendants' Exhibit 205 (O'Brien) and offered in evidence.

Defendants' Exhibit 205 is as follows:

7310

DEFENDANTS' EXHIBIT 205

(O'Brien)

SOUTHERN PACIFIC COMPANY

Lines in Oregon

Statement of new lines constructed and under way July 1st, 1904, to June 30th, 1909.

Line	Mileage	Amount
Beaverton & Willsburg R. R.	10.55	$795,498.06
Springfield-Henderson cut-off	1.13	171,682.90
LaFayette-St. Joseph cut-off	2.33	46,740.18
Crabtree-Lebanon cut-off	.....	290,792.60
Pacific Railway & Navigation Co. Line, Hillsboro to Tillamook, Ore	90.74	3,480,407.35
Total	.....	4,785,121.09

Q. Referring to Defendants' Exhibit 177 being "Statement of Expenditures for Additions, Betterments and Improvements, Southern Pacific Lines in Oregon," I will ask you if you have the details of the item marked "Buildings and Miscellaneous" upon that exhibit?

A. Yes, sir.

Q. How are the sheets headed containing those details?

A. "Southern Pacific Company—Lines in Oregon. Statement of Improvements and Betterments from July 1st, 1904, to June 30th, 1909."

Q. Including what general items?

A. Water supply and buildings.

7311 Q. Do those sheets contain a correct statement of all details in connection with the item of "Buildings and Miscellaneous" set forth in Defendants' Exhibit 177?

A. Yes, sir.

Mr. LOOMIS. The details just identified by the witness are marked Defendants' Exhibit 206 (O'Brien), and offered in evidence.

Defendants' Exhibit 206 is as follows:

DEFENDANTS' EXHIBIT 206

(O'Brien)

SOUTHERN PACIFIC COMPANY—LINES IN OREGON

Statement of Improvements and Betterments from July 1st, 1904, to June 30th, 1909.

MISCELLANEOUS.

Location and description.	Cost.	
1904–1905.		
Portland—Constructing Five Crossing Bells between Jefferson St. and Riverview	$793. 95	
Salem—Lowering grade 12th St	1, 278. 64	
Merlin—Raising grade—Main line and moving siding	4, 404. 48	
522–C—Retaining wall	1, 093. 66	
Oakland—Electric Crossing Bell	354. 11	
M. P. 521—Retaining wall	1, 689. 53	
E. Portland—Upper Dock, River Track approach entire wall renewed	4, 539. 01	
Coalca—Protecting roadbed, Bridge 752, A. & B	535. 02	
Oregon City—Team under crossing	18, 021. 51	
		$32, 710. 01
1905–1906.		
Oregon City—Underground Crossing	2, 507. 92	
Roseburg—Coal Storage Device	10, 567. 48	
Oregon City—7th St. Crossing	6, 499. 70	
Oregon City—Retaining wall	274. 66	
Oregon City—Fourth St. Crossing	7, 834. 42	
		27, 684. 18
1906–1907.		
Roseburg—Drilling well	8, 633. 26	
Cow Creek Canyon—Retaining wall	3, 337. 95	
Tunnel # 9—Change of Line	3, 946. 88	
Aurora—Raising Grade	6, 330. 39	
Salem—Crossing Bell—Center St	38. 17	
Salem—Crossing Bell—State St	38. 17	
E. Portland—Crossing Gates	1, 266. 43	
Roseburg—Drop Pit and Hydraulic Lift	2, 848. 55	
Oregon City—Retaining wall	3, 299. 83	
Harrisburg—Wing Dam	764. 52	
Jefferson—Underground Crossing	2, 749. 89	
Roseburg—Installing steam jet Pipes	937. 68	
		34, 191. 72
1907–1908.		
Harrisburg—Wing Dam	1, 366. 81	
Portland—Fire Protection—Freight house	1, 070. 47	
Glendale—Cornutt—Riprapping	15, 000. 00	
Albany—Depot Platform and filling	23, 070. 93	
Albany—Depot Platform	1, 127. 38	
		41, 635. 59
1908–1909.		
Oregon City—Overhead crossing	1, 379. 75	
Medford—Concrete Sidewalk	1, 291. 58	
Eugene—Street Improvements	1, 129. 65	
Cottage Grove—Crossing Bells	285. 00	
Eugene—Macadamizing street	263. 96	
		4, 349. 94
Grand Total		140, 571. 44

Statement of Improvements and Betterments from July 1st, 1904, to June 30th, 1909—Continued.

7313

WATER SUPPLY.

Location and description.	Cost.	
1904–1905.		
Whiteson—Water Station	$3,624.17	
Barlow—Water Station	4,388.98	
Gaston—Rebuilding water station	2,229.49	
Beaverton—Digging well	202.96	
Springfield—Water Station	673.90	
Salem—Erecting Water Column	2,273.95	
		$13,393.45
1905–1906.		
Eugene—Installing 65000 Gal. Steel Tank and Gasoline Engine	5,616.68	
Roseburg—12″ Poage Water Column	1,409.90	
Drain—Installing 65000 Gal. Steel Tank and Gasoline Engine	1,955.81	
Oakland—Gasoline Plant	1,436.99	
Cottage Grove—65000 Gal. Tank and Gasoline Engine	4,868.44	
Oregon City—Water Tank	2,374.90	
Roseburg—Two wells and Steam Plant	1,476.00	
		19,168.72
1906–1907.		
Green—Laying 4900 feet Pipe line	455.01	
Medford—65000 Gal. Steel Tank	3,070.45	
Roseburg—65000 Gal. Steel Tank	1,944.91	
		5,470.37
1907–1908.		
Roseburg—Installing Duplex Pump	5,527.50	
Roseburg—Centrifugal Pump & Gasoline Eng	1,001.02	
Roseburg—Well	8,052.48	
		14,581.00
1908–1909.		
Whiteson—Water column—65000 Gal. Tank	1,303.03	
Grants Pass—Digging Well and Installing Gasoline Plant	3,049.33	
Myrtle Creek—Installing Gasoline Pumping	1,362.86	5,715.22
Grand Total		58,328.76

Statement of Improvements and Betterments from July 1st, 1904, to June 30th, 1909—Continued.

7314 BUILDINGS.

Description.	Cost.	
1904–1905.		
Divide—Section Buildings	$1,919.89	
Chemawa—Depot	718.45	
Salem—Remodeling Depot	306.13	
Divide—Tool House	106.17	
Gaston—Freight & Passenger Depot	247.71	
Wapato—Freight & Passenger Depot	253.97	
Suver—Freight & Passenger Depot	251.51	
Portland—Enlarging Pintsch Gas Plant	6,183.11	
		$9,986.94
1905–1906.		
Talent—Section Buildings	1,482.41	
Roseburg—Extension Depot	23,355.86	
Raleigh—Freight & Passenger Depot	254.55	
Newton—Freight & Passenger Depot	167.36	
Reuben—Section Buildings	765.07	
Roseburg—Sand House	112.27	
Talent—Tool House	110.30	
		26,247.82
1906–1907.		
Reuben—Section Buildings	1,941.99	
Silverton—Remodeling & Enlarging Depot	2,161.50	
West Scio—Remodeling & Enlarging Depot	1,772.38	
Beaverton—Remodeling & Enlarging Depot	1,210.04	
Mt. Angel—Remodeling & Enlarging Depot	952.31	
Aumsville—Remodeling & Enlarging Depot	2,700.46	
Oregon City—Remodeling & Enlarging "	2,946.22	
Shattuck—Passenger & Freight Sheds	279.97	
Sheridan Jct.—Passenger & Freight Sheds	397.57	
Roseburg—Roundhouse	24,688.79	
		39,051.23
1907–1908.		
Drain—Combination Depot	2,824.60	
Shaw—Freight & Passenger Sheds	182.46	
Hugo—Freight & Passenger Sheds	145.20	
7315 Shelburn—Freight & Passenger Sheds	157.06	
Divide—Freight & Passenger Sheds	116.94	
Marcola—Depot	1,530.19	
Albany—Depot	13,241.61	
Eugene—Depot	20,113.61	
Cottage Grove—Signal House	650.00	
Oregon City—Signal House	650.00	
		39,611.67
1908–1909.		
Gaston—New Depot	1,465.32	
Lebanon—Enlarging Depot	2,208.33	
Dayton—New Depot	831.34	
St. Marys—Freight & Passenger Sheds	187.96	
East Portland—Depot	16,019.45	
		20,712.40
Grand Total		135,610.06

Q. Referring to Defendants' Exhibit 154, "Statement of Expenditures for Additions, Betterments and Improvements on the Oregon Railroad & Navigation Company's lines," and to the item of Buildings therein contained, I will ask you if you have a statement of the details of that item?

A. I have.

Q. Will you please produce it?

Witness produces paper.

Q. Is this a correct statement of what it purports to show on its face?

A. Yes, sir.

Mr. LOOMIS. The statement just referred to is marked Defendants' Exhibit 207 (O'Brien), and is offered in evidence.

Defendants' Exhibit 207 is as follows:

7316 DEFENDANTS' EXHIBIT 207

(O'Brien)

(Exhibit "G")

THE OREGON RAILROAD & NAVIGATION COMPANY

Statement of improvements and betterments from July 1st, 1900, to June 30th, 1909.

BUILDINGS.

Description.	Cost.	
1900-1901.		
Huntington—New Freight House	$3,351.47	
Multnomah Falls—Rustic Depot	637.91	
La Grande—New Passenger Depot	6,928.45	
Riparia—Passenger Transfer Depot	172.79	
Wallace—Freight Transfer Shed and Platform	573.10	
Waverly—Stock Yards (4-car capacity)	164.04	
		$11,827.76
1901-1902.		
Medimont—Storage Warehouse	151.42	
Black Bear—New set Section Buildings	874.77	
Chatcolet—Bridge Tender's Dwelling	475.58	
Freeman—Depot	791.50	
Guy—Depot	861.07	
Hot Lake—Depot	592.57	
Seltice—Depot	315.10	
Umatilla—Boiler, Sand Houses and Air Comp	2,200.92	
Wardner—Depot	2,216.78	
U. P. Standard Train Order Signals installed at 37 stations	5,334.05	
Endicott—Stock Yards, capacity increased 3 cars	241.27	
Umatilla—Changing location Stock Yards, eight-car capacity	268.02	
Kamela—Enlarging coal chutes to 12 pockets	994.95	
Quinns—Telegraph Office	187.31	
		15,505.31

Statement of improvements and betterments from July 1st, 1909, to June 30th, 1909—Continued.

BUILDINGS—Continued.

Description.	Cost.	
7317 1902–1903.		
Ione—Stock Yards	$128.47	
Huntington—Stock Yards Water Supply	515.88	
Bridal Veil—Depot	2,399.92	
Cascade Locks—Depot Foundation & Platform renw	379.28	
Dalles—Roundhouse Remodelled	883.48	
Dalles—Four Section Buildings	1,656.09	
Echo—Depot Remodelled	182.38	
Kahlotus—Depot	1,631.03	
Lime—Two Section Buildings	728.37	
Pendleton—Coach Watering Plant	377.05	
Pendleton—Two Storehouses	1,950.32	
Rowena—Sand Watchman's House	183.58	
Spokane—Temporary Depot	2,574.43	
Turner—Depot	742.67	
Umatilla—Section House	593.80	
Umatilla—Extension to Depot	897.64	
Walla Walla—Extension to Freight House	1,000.02	
Washtucna—Depot	1,422.36	
Wallula—Section Buildings	416.95	
Colfax—Stock Yard Scales	429.46	
Winona—Stock Yard Scales	397.84	
Grange City Jct.—Telegraph Office	713.65	
Pendleton—Lumber Shed & Store Houses	2,818.78	
Arlington—Stock Yards Water	121.73	$23,145.18
1903–1904.		
Page—New Depot	2,123.97	
Pendleton—Depot Remodelled	1,857.72	
Tekoa—New Depot replacing one burned	500.00	
Spokane—Depot Site Graded	2,297.56	
Hood River—New Freight House	1,632.80	
Baker City—New Baggage & Express Office	1,149.33	
East Portland—Section Buildings (4)	2,488.06	
Walla Walla—Ice House	2,497.18	
Riparia—Ice House	2,472.36	
Umatilla—Enginehouse Repaired	1,306.26	
Tekoa—Enginehouse Repaired	490.20	
Thornton—Stock Yards	112.33	
Haines—Stock Yards	116.59	
Heppner—Stock Yards	1,970.25	
Durkee—New Depot	2,680.58	
Baker City—Remodelling Depot	1,459.52	
Pleasant Valley—"I" Beam Girder Cinder Pit	1,268.36	
7318 1904–1905.		26,423.07
Collins—New Depot	184.32	
Mica—New Depot	344.16	
Touchet—New Depot	365.19	
Stokes—New Depot	1,374.56	
Hood River—Extending & Remodelling Depot	500.00	
Prescott—Extending & Remodelling Depot	614.21	
Colfax—Remodelling Depot	312.72	
Oakesdale—Stock Yards Water Supply	164.33	
Milton—Extending Depot	714.12	
Wardner—New Freight House	1,566.85	

Statement of improvements and betterments from July 1st, 1909, to June 30th, 1909—Continued.

BUILDINGS—Continued.

Description.	Cost.	
Harrison—New Depot	$2,596.35	
Tekoa—New Freight House	1,651.86	
Tekoa—Hot Water Heating Plant installed depot	981.35	
Heppner—Section House	307.77	
Canyon—Section House	279.41	
Pleasant Valley—Coal Chutes (8 pockets)	3,110.70	
Umatilla—Coal Platform	1,531.76	
La Grande—Coal Platform	676.62	
Albina—Coal Platform	1,364.60	
Umatilla—2 stall addition to Roundhouse	329.15	
La Grande—4 stall addition to Roundhouse	691.87	
Huntington—4 stall addition to Roundhouse	483.28	
Albina—New Transfer Table	15,130.38	
Starbuck—Hydraulic Pit	2,359.17	
La Grande—New Freight House	2,970.77	
Pleasant Valley—"I" Beam Girder Cinder Pit	1,268.36	
Starbuck—Coal Platform	579.35	
Wyeth—Bunkhouses	2,123.34	
Spokane—Water to Stock Yards	134.18	
Grants—Stock Yards	135.61	
Umatilla—"I" Beam Girder Cinder Pit	2,252.01	
Pendleton—"I" Beam Girder Cinder Pit	984.32	
Kamela—"I" Beam Girder Cinder Pit	1,262.75	
Huntington—"I" Beam Girder Cinder Pit	2,435.32	
		$51,780.74
7319 1905–1906		
Albina—Machine Shop	$95,659.95*	
Albina—22 stall addition to Roundhouse	57,050.55*	
Albina—Storehouse	5,868.70*	
Albina—Heating Plant	10,977.81*	
Albina—Air and Water Lines	1,560.86*	
Albina—Traveling Cranes	41,483.93*	
Albina—Steel Derrick	9,659.35*	
Albina—Double Conveyor	11,188.26*	
Albina—Steel Gallery Tool Room & Shaftg Sprt	12,461.55*	
Albina—Sewerage System	3,817.36	
Sunset—New Depot	762.95	
Hay—New Freight House	133.61	
Colfax—New Freight House	3,016.29	
Albina—Paint and Coach Repair Shop	47,692.56*	
Walla Walla—Section Buildings	334.96	
Maxwell—Section Buildings	887.07	
Spokane—Fire Protection, Freight House	1,559.47	
Dayton—Fire Protection Freight House	117.44	
La Grande—Fire Protection Freight House	192.70	
Maxwell—Bunk Houses	406.27	
Various places—22 Wood Sheds	1,371.94	
Albina—Fire Protection, Shops	792.09	
La Grande—Boiler Washing	256.40	
		307,252.07
1906–1907.		
St. Johns—Depot Extended	838.34	
Dalles—Temporary Depot	277.01	
Dalles—Remodelling Roadmaster's Office	203.95	
		1,319.30

Statement of improvements and betterments from July 1st, 1900, to June 30th, 1909—Continued.

BUILDINGS—Continued.

Description.	Cost.	
1907–1908.		
La Grande—Hydraulic Drop Pit	$2,952.00	
La Grande—"I" Beam Girder Cinder Pit	2,376.46	
La Grande—Round House	67,337.78	
La Grande—Coal Storage	19,651.63	
La Grande—Power House	15,619.54	
Portland—Fire Protection Freight House	976.56	
Walla Walla—New Depot	38,362.19	
		$147,276.16
320 1908–1909		
LaGrande—Loco. Boiler Washing System	12,216.22	
LaGrande—Heating Plant for Roundhouse	13,135.19	
Albina—Storehouse No. 1	8,983.07	
Albina—Storehouse No. 2	6,982.44	
Huntington—Well	3,591.34	
Tunnel No. 3—Watchman's House	230.31	
Albina—Additional Boilers	8,605.85	
Albina—15-ton Crane—Blacksmith Shop	9,577.26	
Portland—2 Steel Span across Sullivan Gulch	3,200.00	
Troutdale—New Depot (Old one burned)	1,846.82	
North Powder—New Depot (Old one burned)	2,445.09	
Hilgard—Section House	736.04	
LaGrande—Coal Chute	1,243.66	
M. P. 125—Watchman's House	239.37	
Tekoa—New Depot (Old one burned)	8,441.58	
Tekoa—Renewal Cinder Pit	1,029.82	
Winona—New Depot (Old one burned)	5,430.05	
Winona—Section House (Old one burned)	978.55	
Scott—Watchman's House	323.04	
		89,235.70
Total		673,765.29

Q. Referring to the item of Water Supply in the same exhibit, 154, I will ask you if you have a statement of the details of that item?

A. Yes, sir.

Q. Will you please produce it.

The witness produced a paper and the same was marked Defendants' Exhibit 208 (O'Brien).

Q. Is this a correct statement?

A. It is.

Mr. LOOMIS. I offer Defendants' Exhibit 208 in evidence.

Defendants' Exhibit 208 is as follows:

7321 Exhibit "H."

DEFENDANT'S EXHIBIT 208.

(O'Brien.)

THE OREGON RAILROAD & NAVIGATION COMPANY.

Statement of Improvements and Betterments from July 1st, 1900, to June 30th, 1909.

WATER SUPPLY.

Location and description.	Cost.	
1900-1901		
Echo—Installing Gasoline Engine & Imprts	$909.09	
Harrison—Pump House & Tank connected with Lake	1,443.43	
Mosier—10-inch water column	543.58	
		$2,896.10
1901-1902		
Chatcolet—Gasoline Pumping Plant	911.41	
Cold Springs—Tank, Windmill and Well	2,860.12	
Fairfield—Pump House and New Well	529.98	
Hilgard—5400′ 4″ Pipe to Gravity Source	1,873.77	
Moscow—Well Deepened 90 ft	791.26	
Oakesdale—Gasoline Pumping Plant	984.15	
Sunset—Gasoline Pumping Plant	1,027.27	
Sweeney—Redwood Tank and 1300′ of 3″ Pipe	1,766.77	
Telocasset—New Well 50 ft. deep	1,576.71	
Washtucna—Tank connected with Gravity Sup	745.57	
Huntington—Tank for Hotel 1100 ft. 2½″ Pipe	732.37	
LaGrande—Deepening Well	1,202.17	
		15,001.55
1902-1903		
Baker City—Gasoline Pumping Plant 4100′ 4″ Pipe	4,777.75	
Fairfield—Redwood Tank Wind Mill Moved	1,285.76	
LaGrande—2 Water Columns & 1000′ 10″ Pipe	2,036.05	
Mica—Well and Gasoline Pumping Plant	1,284.78	
Moscow—Gasoline Pumping Plant	941.51	
Pleasant Valley—Steam Pumping Plant & Well	1,373.17	
Umatilla—Steam Pumping Plant & 1500′ 4″ Pipe	712.39	
		12,411.41
7322 **1903-1904**		
Pomeroy—Gasoline Pumping Plant	881.57	
Heppner—Gasoline Pumping Plant	898.25	
Cecils—Gasoline Pumping Plant	915.23	
Ione—Gasoline Pumping Plant	925.06	
Pendleton—2 Water Columns	1,473.73	
Baker City—Well	532.48	
Fairfield—Moving Wind Mill, etc	1,285.76	
LaCrosse—New Well and Building Moved	680.30	
Willada—New Well & Gasoline Pumping Plant	1,657.80	
Pendleton—Locomotive Boiler Installed	405.96	
Huntington—Locomotive Boiler Installed	851.82	
Chatcolet—Water Tank Rebuilt	257.55	
Willows—Pumpers Dwelling (New)	315.63	
Cecils—Tank	598.80	
		11,679.94

Statement of Improvements and Betterments from July 1st, 1900, to June 30th, 1909—Continued.

WATER SUPPLY—Continued.

Location and description.	Cost.	
1904–1905		
Arlington—10″ Water Column	$1,190.12	
Baker City—12 Water Column	1,409.99	
Walla Walla—Well and Gasoline Pumping Plant	2,230.42	
Pleasant Valley—Well and Tank	4,762.14	
Spokane—Tank and Gasoline Pumping Plant	2,425.17	
Tekoa—Tank	2,682.19	
Touchet—Tank and Wind Mill Rebuilding	1,477.17	
North Powder—Well and Pump House	1,569.46	
		$17,746.66
1905–1906		
Albina—Pumping Station	23,459.64	
Meacham—Dam and Reservoir	6,476.66	
Tekoa—2245′ Pipe from Spring	973.02	
John Days—Redwood Tank, Renewal	1,709.36	
Wallace—Redwood Tank, Renewal	1,048.64	
Hood River—Tank, Water Column and Well	4,175.55	
Durkee—Improvement of Water Supply	1,309.18	
		39,152.05
1906–1907		
LaCrosse—Steel Tank, Renewal	1,507.32	
Oakesdale—Improvement of Water Supply	1,117.24	
		2,624.56
1907–1908		
Bingham Springs—Improvement Water Supply	3,859.65	
Durkee—Gravity Supply	3,646.98	
North Fork—Steel Tank	6,711.54	
Lane—New Water Station	1,551.74	
Starbuck—Improvement Gravity Supply	900.45	
		16,670.36
1908–1909		
Spokane—Stand Pipe	474.04	
Albina—Lowering 20″ Pipe Line	9,385.85	
Umatilla—Pump House	1,511.81	
Huntington—Duplex Pump	789.46	
Walla Walla—Installing Pump	867.29	
Winona—Tank, old one burned	2,332.71	
Spokane—Stand Pipe	474.04	
		15,835.20
Grand Total		$134,017.83

Q. Have you the details of the item "Miscellaneous" set forth in Exhibit 154?

A. I have.

Q. Is it a correct statement?

A. Yes, sir.

Q. Will you produce it?

Witness produces paper and the same was marked Defendants' Exhibit 209 (O'Brien).

Mr. LOOMIS. I offer Defendants' Exhibit 209 in evidence.

Defendants' Exhibit 209 is as follows:

7324

DEFENDANTS' EXHIBIT 209

(O'Brien)

THE OREGON RAILROAD & NAVIGATION COMPANY

Statement of Improvements and Betterments from July 1st, 1900, to June 30th, 1909.

MISCELLANEOUS.

Location and description.	Cost.	
1900–1901		
Undergrade Crossing at Freemen	$274.88	
Riprapping M. P. 217–221	234.89	
Riprapping M. P. 251–256	579.28	
Riprapping Near Orodell	3,047.28	
Wing Dams at Milo Cr., Bunkerhill & Sul. Mine	3,164.58	
Riprapping M. P. 259	161.98	
		$7,462.89
1901–1902		
Overhead Crossing near Portland	1,054.28	
Riprapping at Garfield	104.99	
Riprapping at M. P. 382	104.60	
Riprapping at M. P. 422–423	115.70	
Riprapping at Bridge 27	272.49	
		1,652.06
1902–1903		
Riprapping at Pomeroy Branch	561.99	
Riprapping at Connell Branch	161.97	
Riprapping between Dudley and Wallace	2,662.54	
Riprapping at Piers Willamette River Branch	2,054.22	
		5,440.72
1903–1904		
Riprapping on Heppner Branch	549.15	
New Telegraph Wire between Umatilla & LaGrande	3,206.95	
Excavating new Channel M. P. 246–247	3,718.07	
New Telegraph Wire between Umatilla & Spokane	1,770.52	
		9,244.69
1904–1905		
Riprapping—Burnt River	464.44	
Riprapping—Burnt River Canyon	12,223.20	
Riprapping—M. P. 360–361	844.92	
Riprapping—Meacham Cr. and Umatilla River	15,684.85	
Riprapping—Near Garfield	325.62	
		29,543.03
7325 1905–1906.		
Changing and grading new County Road, Weatherby	480.00	
Riprapping near Perry	322.41	
Riprapping M. P. 166–167	311.97	
Riprapping Canyon Cr. and Coeur d'Alene River	1,964.06	
Riprapping near Pendleton	646.62	
Riprapping Wild Horse Creek	448.31	
Overhead Crossing near M. P. 397–Lime	407.64	
Riprapping near Orodell	1,059.28	
Riprapping M. P.	1,767.90	
		7,408.19

Statement of Improvements and Betterments from July 1st, 1900, to June 30th, 1909—Continued.

MISCELLANEOUS—Continued.

Location and description.	Cost.	
1906–1907.		
Riprapping near Wakefield Siding	$6,241.37	
New Copper Telegraph Wire, Portland to Hungn	21,217.61	
		$27,458.98
1907–1908.		
Riprapping at Wallace	347.91	
Addition of Telegraph Wire, Tekoa–Spokane	2,064.05	
		2,411.96
1908–1909.		
Portland Side Walk—Hood Street	407.68	
Riprapping on Wallace Branch	1,425.87	
Moving Loose Rock M. P. 124	249.45	
Riprapping M. P. 326	281.14	
Albina—Macadamizing R. R. Street	2,057.55	
Spokane Olive Street Sub-way	8,255.70	
Wallula—Air Coaling Crane	769.17	
Spokane—Sewer Improvements	1,052.80	
Colfax Street Improvements	1,886.41	
Spokane—Sewer Improvements	737.00	
		17,122.77
Grand Total		107,745.29

7326 Cross-examination by Mr. SEVERANCE.

Q. How long have you been connected with the Oregon Railroad & Navigation Company?

A. About 17 years.

Q. In what capacities?

A. Assistant superintendent, superintendent of rail lines, general superintendent, general manager.

Q. How long have you been general manager?

A. About 5 years.

Q. Whom did you succeed?

A. Succeeded Mr. Worthington.

Q. Where did he go?

A. He came east, with the Wheeling & Lake Erie.

Q. What is his business now?

A. He is receiver for the same line.

Q. How long have you been connected with the Southern Pacific Company?

A. Since July, 1904.

Q. In what capacity?

A. General superintendent.

Q. All of the time?

A. Yes, sir.

Q. Over what territory does your jurisdiction extend?

A. Over the main line from Portland to Ashland, and the branch lines in the state of Oregon.

Q. Previous to that time who held that position?

A. They did not have the position of general superintendent, but they had a position they called "manager", the manager, however, performing practically the same duties as the general superintendent does at the present time.

Q. Who was the gentleman that filled that office?

A. Mr. Koehler.

Q. What became of Mr. Koehler?

A. He is still in the employ of the Navigation Company and
7327 the Southern Pacific lines in Oregon, as general purchasing agent.

Q. Previous to 1904 were there any common officials of the two companies in Oregon, or were they separate?

A. They were separate.

Q. At what time in 1904 were they consolidated?

A. I could not give you the exact date they were consolidated, but I should say it was about 90 days previous to the time that I was appointed general superintendent of the lines in Oregon.

Q. And what time in the year was that?

A. July, 1904.

Q. So you would think it would be the spring of 1904 sometime?

A. Yes, sir.

Q. And were the traffic departments consolidated at the same time as the operating, or earlier?

A. I couldn't say as to that.

Q. You don't remember about that?

A. No; I not having anything to do with the traffic department. I am in charge of operating.

Q. You are like all operating men—you claim to know nothing of traffic.

A. That is right.

Q. And all the traffic men claim to know nothing of operation. I often wonder how you coordinate yourselves.

A. We don't have any difficulty.

Q. You say you have been with the Navigation Company for 17 years?

A. Yes, sir.

Q. And previous to the time that you were appointed general manager of the O. R. & N.—Is that the title?

A. Vice-president and general manager.

Q. —you were general superintendent?

A. Yes.

Q. How far back did that take you?

A. About a year and a half.

Q. That would be about 1902 or 1903?

A. Yes, sir.

7328 Q. And previous to that you were superintendent?

A. Previous to that, superintendent of the rail lines.

Q. So you have had a pretty intimate knowledge of the O. R. & N. Railroad lines for many years?

A. Yes, sir.

Q. Defendants' Exhibit 156 is entitled "The Oregon Railroad & Navigation Co. Renewals of Rails, Branches." I find this notation: "New branch lines built or acquired, 219; branch mileage changed to main line, 50; net gain, branch mileage, 169" miles. That covers the period, according to this exhibit, from July 1, 1900, to June 30, 1909. That is correct, isn't it?

A. Yes, sir.

Q. Can you tell me where I will find the detail of those branch lines, if at all, on your exhibits? I do not seem to see it. I find on Defendants' Exhibit 164 a statement of "Important new work started and now under way, dating from Nov. 30, 1909," which includes certain branches; but if you gave the details of the branches embraced in the notation I mention on Defendants' Exhibit 156, I do not find it.

A. The branch lines referred to in the first exhibit that you spoke of are probably included in the exhibit headed "Statement of new lines constructed and now under way." But I could not at the present time pick out the branch lines which the figures in the first exhibit that you refer to cover. I can very readily do that when I get back to the hotel.

Q. Now, I want to call your attention to Complainant's Exhibit 107, which is in the record, volume 3, opposite page 1,014, being the Union Pacific and Southern Pacific systems' map. The map embraces the O. R. & N. and the Southern Pacific lines in Oregon, doesn't it?

A. Yes, sir, I assume that it does. I don't know whether it covers all the lines——

7329 Q. It covers all the lines as they existed in 1908, doesn't it, at the time it was published?

A. I couldn't say about that unless I checked it up.

Mr. Loomis. You better check it up, then, Mr. O'Brien.

Q. You better check it up, because I want to ask you about those branches there.

A. It does not include the Lake Creek & Coeur d'Alene Railroad branch line running from Lake Junction to Farmington Landing.

Q. Where is Lake Junction—what state?

A. In Washington; it is about 20 miles west of Spokane.

Q. What state is Farmington in?

A. That is on the Lake; that is a cut-off from Spokane to the Coeur d'Alene country.

Q. This line that you speak of starts from a short distance south of Spokane, on the O. R. & N. and runs easterly for how many miles?

A. About 14 miles, to Lake Coeur d'Alene.

Q. And that was built to give you direct access to the Coeur d'Alene country from Spokane, without running down and back on the old line as shown on the map?

A. With a boat transfer across from Farmington Landing to Harrison. We make a cut-off between Spokane and the Coeur d'Alene country, of about 45 miles.

Q. Were there any other lines of the O. R. & N. at the time this map was published, that are not shown on it?

A. Yes, sir. There was an extension of the St. Johns line to Maegley Junction, Oregon, 3.79 miles.

Q. What is the length of this other line, that you say is not shown on the map?

A. 3.79 miles.

Q. Where does that run, and what is its purpose.

A. It extends from St. Johns in the direction of the Columbia River, and was built for two purposes: one to give us a direct
7330 connection with the S. P. & S. Line, that is the North Bank line; and again, later on, with an extension to give us a double-track line from Albina, which is our freight terminal, to Troutdale, about 20 miles east of Portland, on the O. R. & N.

Q. This 3 miles of road is only a few miles out of Portland, is it?

A. Yes.

Q. North?

A. Yes.

Q. The North Bank road that you speak of is the road constructed jointly by the Northern Pacific and Great Northern, running from Spokane to Portland?

A. Yes, sir.

Q. Are there any other O. R. & N. lines, as they existed in 1908, that are not shown on this map?

A. Yes, sir; as shown on this sheet, an extension from St. Johns to Troutdale.

Q. That is in connection with the same——

A. That is in connection with the same one; to give us a double-track line into Portland.

Q. How many miles was that?

A. 14.28 miles.

Q. That was built for the purpose of giving you a double-track into Portland from Troutdale?

A. Yes, sir.

Q. And Troutdale is how many miles east of Portland?

A. About 19 miles.

Q. On the main line?

A. On the main line.

Q. Are there any other branches not shown on this map, that existed at the time the map was published, in 1908?

A. Yes, sir; the Des Chutes Railroad.

Q. Where is that built?

A. From Des Chutes on the Columbia River.

Q. My question is directed to any track that had been laid, any existing lines in 1908; not to contemplated work or survey
7331 work, but merely to branches that were in existence, over which you could operate trains. You have stated them all, have you?

A. Yes. The Des Chutes Railroad that I have referred to, I do not think any track had been laid; I think we had made some expenditures on the line, in the way of surveys and acquiring rights of way, etc.; but I could not say definitely that construction had been started at that time.

Mr. DUNNE. Hadn't you better state what the Des Chutes road is, in your testimony?

Mr. SEVERANCE. I am going to ask him that. I am going into the Des Chutes matter quite fully.

Mr. DUNNE. Inquire about this other line; the 14.28 miles is in operation; St. Johns to Troutdale.

Q. That is in operation, isn't it?

A. That is now under construction.

Q. These questions that I have been asking you are not with reference to contemplated lines or surveyed lines. I am asking you about the lines that were in existence at the time this map was made. I was trying to find out whether this was an accurate map. Now, how about that other line, the St. Johns line to the bridge; was that in operation then?

A. That was in operation.

Q. But the one you say was built for the purpose of giving you double-track was not in operation?

A. No, sir.

Q. When was that completed, or hasn't it yet been completed?

A. The Troutdale line?

Q. Yes.

A. That has not been completed.

Q. Were there any other lines that were in operation at the time this map was printed?

A. I don't think so, no, sir.

7332 Q. Then you think this is a truthful map, so far as showing the lines that the O. R. & N. had in operation at that time, with the exceptions you have stated?

A. Yes, sir. The same correction should be made on the Lake Creek & Coeur d'Alene; we are not operating; that is practically ready to operate.

Q. That has not yet been completed?

A. No. I misunderstood your question, because the statement shows new lines constructed and now under way.

Q. Now, the terminus of the O. R. & N. is at Huntington, isn't it?

A. Yes, sir, the eastern terminus.

Q. That is where it joins the Short Line?

A. Yes, sir.

Q. On this map there are certain short branch lines shown, leaving the main line of the O. R. & N. and running south and west. The first one east of Portland is a line running from Biggs, I think it is, to Shaniko?

A. Yes, sir.

Q. That is the first one, isn't it?

A. Yes, sir.

Q. When was that built and by whom was it built?

A. It was built about 10 years ago, I should say; by a gentleman by the name of E. Lytle and his associates.

Q. How long after it was built was it acquired by the O. R. & N.?

A. I should say about 2 years, possibly 3; I couldn't state definitely.

Q. It has not been extended by the O. R. & N. since it was purchased, has it?

A. It has not.

Q. How far is it from the main line up to Shaniko?

A. About 70 miles.

Q. The next line east of that one seems to leave the main line at Arlington?

A. Yes, sir.

Q. And runs up to what point?

A. Condon.

7333 Q. When was that line built?

A. I think it has been in operation about 3 or 4 years.

Q. How long is it?

A. 45.31 miles.

Q. And that line has not been extended since it was built?

A. It has not.

Q. The next line east of that runs up to Heppner, doesn't it?

A. Yes, sir.

Q. How long a line is that?

A. About 45 miles.

Q. When was that built?

A. I couldn't give you the exact date; but that is an old line. I should say 15 or 16 years ago.

Q. Was this line to Condon built by the O. R. & N. direct?

A. Yes, sir.

Q. What is the next branch line east of the Heppner line?

A. On the main line, between Portland and Huntington?

Q. Yes.

A. The next line is the Pilot Rock branch.

Q. How long is that?

A. It is about 12 miles.

Q. When was that built?

A. About 3 years ago.

Q. Built to Pilot Rock and stopped there?

A. Yes, sir.

Q. What is your next branch east of that, if any?

A. The next branch is a line running from Pendleton to Wallula.

Q. My questions are directed to lines running south and west from the main line, and not lines running up into Washington.

A. The next branch is the Elgin branch, running from LaGrande to Joseph.

Q. That is north, that does not run south. This Elgin branch runs north from the main line, doesn't it?

A. Yes, sir.

Q. It does not run toward central Oregon?

A. No, sir.

Q. Have you any other branches running towards central Oregon?

A. We have not.

Q. There appears on this map, in black, something that
7334 looks like a railroad, running from Baker City to Tipton. Is that a railroad?

A. Yes, sir.

Q. Who owns that?

A. It is owned by Mr. Eccles, of Ogden, Utah. It is a narrow-gauge line.

Q. What kind of country does that reach?

A. I couldn't tell you. I have not been over the line. I think it reaches timber, principally.

Q. Mr. Eccles is a lumberman, isn't he, among his other enterprises?

A. Yes, sir.

Q. I have now called your attention to all the branch lines running into central or eastern Oregon that have been constructed by the O. R. & N. up to the time this map was printed, in 1908?

A. Yes, sir.

Q. What lines, if any, have been constructed into or towards central or eastern Oregon by the O. R. & N. since that date?

A. The Des Chutes Railroad Company is constructing a line from Des Chutes station, on the O. R. & N., to Redmond, Oregon.

Q. Where is Redmond?

A. 133 miles south of the Columbia River, south of the O. R. & N. main line.

Q. Is it on the Des Chutes River?

A. Redmond?

Q. Yes.

A. It is not on the Des Chutes River.

Q. Is it on the Crooked River?

A. No, sir.

Q. What river is it on, if any?

A. It is not on any river.

Q. See if you can point it out on the map. The town of Redmond does not appear to be shown on this map.

A. I cannot find it there.

Q. Will you state how it is located with reference to Prineville, which is shown?

A. It is located about 10 miles west of Prineville.

7335 Q. Is it located on the Des Chutes River?

A. About 10 miles east of the Des Chutes River.

Q. Then it is about halfway between Prineville and the Des Chutes River?

A. I should say that it was.

Q. And does your projected line follow the Des Chutes River Valley up to pretty near that point?

A. About 70 miles we follow the river; then we get out of the river and go across the country—table-land.

Q. Have you laid any track on the Des Chutes line?

A. Yes, sir.

Q. When?

A. We have been laying track for 60 days.

Q. About 60 days?

A. Yes.

Q. Is there any other railroad being built up the Des Chutes River besides yours?

A. Yes, sir.

Q. Who is building that?

A. What is known as the Hill interests.

Q. Is that being built to a connection with some other road?

A. I couldn't say as to that.

Q. By the Hill interests you mean the Northern Pacific-Great Northern interests?

A. Yes, sir. I want to correct that. I do not know whether the Northern Pacific are interested or not. Mr. Hill is the man that stated he is building the line.

Q. What is the name of the corporation that is building the line?

A. The Oregon Trunk Railway.

Q. When did they begin laying track?

A. They have not laid any track.

Q. Then I misunderstood you. I thought you said they were laying track. They have not laid any track?

A. No.

7336 Q. What kind of work have they done? I do not mean what quality of work, but what class of construction work? Grading?

A. Grading; rock work. I could not say as to the extent, however.

Q. How far up from the Columbia River have they progressed with that sort of work?

A. I could not say. I think they have a few men scattered along through the Des Chutes canyon, a distance of 60 or 70 miles.

Q. How did the commencement of their work up in the canyon compare in point of time with the commencement of your work?

A. Actual construction work?

Q. Yes.

A. I think we started construction three weeks or a month before they took any action whatever toward building the line—I mean active work in connection with building the line.

Q. At the time you commenced construction you knew they were going up there, didn't you, or understood they were?

A. Well, I didn't know it, but there had been some talk about it.

Q. You had been told they were?

A. No, sir; I was not told so.

Q. You hadn't heard it from anybody?

A. Well, I understood that the corporation was about to change hands; but I didn't know what they were going to do with it—whether they were going to build or not.

Q. But you got busy right away, when you heard that, didn't you?

A. We had been getting busy for some time. We had been getting busy for a year and a half. I might say right here, that I had in my possession, for over a year before we started work, authority from the executive board and an approved appropriation for the building of that line; but we had not started construction for the reason
7337 that we could not get our maps approved by the Interior Department at Washington. They were government lands, and we did not want to start unless it was absolutely necessary, until all of the maps were approved.

Q. Did you get them approved before you started?

A. Part of them. Part of them are not approved at the present time.

Q. But you did consider it absolutely necessary, when you heard about this other line, did you?

A. Yes; we started work. That shows for itself.

Q. You said you were not going to start until you regarded it as necessary. But as soon as you heard about another line going up into the Des Chutes, you regarded it as necessary, didn't you?

A. Not necessarily so. There was a great clamor for transportation facilities into the interior; and the matter had been taken up with us by the Chamber of Commerce and different commercial organizations in Portland, and we decided to start work.

Q. That was nothing new, was it—this matter being agitated and taken up by the Chamber of Commerce? They had been doing that for years, hadn't they?

A. No, sir; it never had been taken up with me; I knew nothing about it being taken up with all those organizations, until the time I refer to. There had been general talk——

Q. Weren't you aware that the people in interior Oregon went to the legislature of Oregon because you people would not build in and develop the interior of that country, and got the legislature to pass a constitutional amendment authorizing the State itself to build lines in, because you would not build?

A. Yes; I know that.

Q. That did not occur three or four weeks before you started work on the Des Chutes road, did it? That occurred two or three
7338 years ago, didn't it?

A. No, sir.

Q. How long ago?

A. Not to exceed, I should say, 5 or 6 months before we started work.

Q. Before you started actual construction work?

A. Yes, sir.

Q. That was only 5 or 6 months ago, then?

A. Yes, sir.

Q. When did you start actual construction work?

A. About 6 months ago.

Q. And this action by the legislature was only about 6 months before that?

A. Yes, sir. At the last session of the legislature that action was taken.

Q. Don't you know that the citizens and business men of Portland had been trying to get your people to build into central Oregon, for several years, and had approached your president for that purpose, on his visits to Portland, years ago?

A. I understand so.

Q. That is what I thought.

A. But the question you asked was if the matter had been taken up with the commercial associations, and I said not until a short time previous to the work being started.

Q. There had been a great deal of agitation there, hadn't there, and a great many requests in one way or another?

A. A great deal of newspaper agitation.

Q. —which you don't care much about, do you?

A. No.

Q. That doesn't interest you?

A. Well, I have seen so much of it and in checking it up I have satisfied myself, in many cases, that it did not voice the sentiments of the public.

Q. But when another line of road starts into your territory, that does wake you up, does it?

A. Another line of road had not started construction into our territory when we started construction of the Des Chutes line. I think I said that.

7339 Q. But you said you had heard about a change of hands of a certain corporation?

A. Well, if you read the newspapers there in Portland I think you would have to be aware of that fact.

Q. The fact is, that you are both going up there now?

A. I don't know. I know that we are going up there. I am not familiar with the plans of the other gentlemen.

Q. Didn't your corporation go into the courts and try to enjoin the other line from building up that valley?

A. No, sir; we did not.

Q. What did you do about that?

A. We went into court over some rights of way matters which we claimed we were entitled to and which they claimed they were enti-

tled to. We had not done anything to stop them from building their line.

Q. Except using certain lands that they claimed for right of way?

A. Well, you put it that way. I say they are using certain lands that we claim as our right of way.

Q. Well, the court let them go ahead in spite of your efforts, didn't it?

A. The matter has not been settled yet, as I understand it. I might say right now that there is no particular reason for scrapping or trying to keep them from building, because there is plenty of room in that canyon for two railroads to build.

Q. There is plenty of business in central Oregon for two railroads, isn't there?

A. Time will tell. I should say no. I should say any one line will have pretty slim picking for a number of years to come.

Q. Is that the reason you have been so long in starting—because you thought it would be slim picking?

A. To some extent, yes.

7340 Q. How far is the present proposed terminus of this line from Burns?

A. I could not state.

Q. Can you give an estimate?

A. I should say about 150 miles.

Q. What kind of country does the proposed line reach, between the mouth of the Des Chutes and Redmond?

A. It runs through some very fair wheat country; the soil is light, however, and crops are very uncertain, depending largely on winter snowfall and moisture. The lands are what we term in our country as "light" lands; they require a great deal of moisture, to get any kind of a crop. After leaving the wheat sections, the line will tap an irrigated district, of which Redmond is about the center.

Q. Do you reach any timber?

A. No, sir—not to Redmond.

Q. Do you on the line?

A. No, sir.

Q. Don't reach any timber?

A. Not directly. In the canyon they may be able to drive a limited amount of timber—drive some of the streams and deliver a limited amount.

Q. It is chiefly an agriculture line, is it, as it is projected so far?

A. Yes, sir.

Q. I see by your exhibit that you have already constructed of this Des Chutes road 4.09 miles; is that right?

A. Yes, sir.

Q. And that runs from a connection with your main line at the Columbia River, up the Des Chutes River?

A. Yes, sir.

Q. That is, that 4.09 road.

A. That is track laid, yes.

Q. And the balance of the expenditures on that were for grading, surveying, and other expenditures?

A. Yes, sir.

Q. You are unable to state as to the extent of the work that has been done by the other line that is building up there? You don't know about that?

A. As I stated before, they have not laid any track.

7341 Q. And as to the amount of their expenditures, you have no knowledge?

A. No, I don't know. I know they have done some work, but to what extent I could not state. I might state, if permitted to do so, in connection with this 4.09 miles of track laid, that within 30 days we will have at least 50 miles more of grade ready for track. We have now ready for track probably 40 miles of grade, but it is spread out over the district, and they will have to clean up the little pieces in between; so in 30 days I think there will be 50 miles of grade ready for rail.

Q. You now intend to complete the line as soon as you can, to Redmond?

A. Yes, sir. All the track material is on the ground, ready to lay, as far as the track is in shape for it.

Q. Where is Albina?

A. That is the Portland freight terminal for the O. R. & N. Company.

Q. Then, as I take it from your Exhibit 165, the Des Chutes railroad is the only railroad you have now projected into central or eastern Oregon?

A. From the Oregon Railway Navigation line?

Q. Yes.

A. Yes, sir.

Q. Now, turning over to the Southern Pacific branch lines (I want to complete the branch lines first) there are two of these exhibits that refer to these lines; one you put in evidence this morning and the other yesterday?

A. Yes, sir.

Q. That is, we take together defendants' exhibit 186 and defendants' exhibit 205, which show new lines constructed and under way, between June 30, 1904, and June 30, 1909; that is correct is it?

A. Yes, sir.

Q. The only change in the second one being in the cost of the Pacific Railway & Navigation Company line. In the first you

7342 included moneys actually expended; and in the second, the contemplated expense; is that right?

A. Yes, sir; the total cost of the line.

Q. Will you be kind enough to point out on this map the Pacific Railway and Navigation Company line?

The witness indicated on the map.

Q. This Pacific Railway & Navigation line is the most northerly of the branches of the Southern Pacific shown on this map, and is west of Portland?

A. Yes, sir.

Q. Runs nearly to the Pacific Ocean, and then bears to the south?

A. Runs to the Pacific Ocean; follows the coast.

Q. Down to Tillamook?

A. Down to Tillamook.

Q. When was that road constructed?

A. About 18 months ago.

Q. What kind of country does that road pass through?

A. It will serve principally timber; a little dairying on the coast side of the range, but that will give very little traffic.

Q. Principally timber?

A. Principally timber.

Q. When will that line be completed?

A. We expect to be running through to Tillamook not later than the 1st of August this year.

Q. Now, the next line mentioned, reading up on this exhibit, is the Crabtree-Albina cut-off. What is that?

A. This is a line that we had to build on account of two very bad rivers—the Santiam Rivers; they were out of their banks all the time, leaving the bridges high and dry. We have two steel bridges, 500 feet in length each. Every season the river would be out of the bank and cut a new channel. So we built this as a cut-off, so we could get a good foundation for the bridges
7343 and hold them.

Q. That is shown on this map, running from Lebanon to Woodburn?

A. To Crabtree, connecting with the Woodburn branch.

Q. As I understand it, this is a cut-off joining together the two north and south lines, running westerly from Lebanon?

A. It connects what is known as the Woodburn branch, running from Woodburn to Springfield. This is an independent line, running through here [indicating]. In through here [indicating] there is a part of that line. About 5 miles of that line we had to abandon on account of water trouble; so we are building this connection, to connect with the branch, where we connect the line up again. We abandoned that part [indicating].

Q. How long is this cut-off?

A. 10.55 miles.

Q. That does not show on this map?

A. No; that is not shown on the map.

Q. It is the same, then, as one of these others.

A. Yes. I beg your pardon; I have not got that here. The distance is not here; I had the other line. My recollection is that the distance is about 13 miles.

Q. Well, the next one in the list of Southern Pacific branches, the Lafayette and St. Joseph cut-off, 2.33 miles?

A. Yes.

Q. Where is it and what was it built for?

A. That was built for cut-off purposes, too. The original line ran around in through here [indicating]. It crossed the west side line at a station called Whiteson. We found that by building this cut-off that you speak of we could abandon about 5 miles of unprofitable line and accomplish the same purposes. There are very expensive bridges on the old line. So we abandoned the old line, to avoid the necessity of rebuilding the bridges, and built the
7344 cut-off which serves the same purpose as the old line.

Q. The next one mentioned is the Springfield and Henderson cut-off. Where is that?

A. The Henderson cut-off was built to connect up the Woodburn branch with the main line.

Q. At Springfield?

A. Running from Springfield to Springfield Junction; only a mile and a half.

Q. The only other branch that has been constructed since July 1, 1904, according to this exhibit, is the Beaverton & Willsburg Railroad?

A. Yes, sir.

Q. Where is that?

A. That is a cut-off leaving the west-side division at Beaverton, a short distance out of Portland; coming down to the Willamette River, crossing the river and connecting up with the east-side line at Willsburg. It was built principally to take the heavy freight traffic off from 4th Street in Portland. Our present 4th Street line runs through the heart of the city. This cut-off was built in order to relieve the 4th Street line of freight traffic.

Q. I don't see that you list anywhere the Corvallis & Eastern Road, which is shown on this map. When did you buy that?

A. About three years ago.

Q. That runs from Yaquina Bay easterly, crossing your lines, and ends at what point?

A. Ends at Detroit.

Q. How long a line is that?

A. About 149 miles.

Q. Have you extended it since you bought it?

A. We have not.

Q. Did that line have a right of way across the state?

A. It had a right of way to the summit of the Cascades, but I don't think they have any right of way east of the summit.

Q. Do you know about that?

A. I don't know. Our records don't show it.

7345 Q. I notice on this map there is shown in dashes (which, according to the index, means Southern Pacific system lines under construction) a line leaving the Shasta Route main line at

Drain, running westerly and southerly to Coos Bay. That line is not under construction, is it?

A. There is no work being done at the present time, but there has been quite a large amount of money spent on it.

Q. The fact is, about that line, is it not, that you did at one time, about the fall of 1905, do some work in the way of putting in bridges and grading, that you laid a little track which you afterwards took up, and finally declined to go on with the line unless the people at Coos Bay would guarantee you four per cent on your investment over and above expenses of operation and maintenance. Wasn't that the story, in substance?

A. I think that is right, except that I do not think there has been any track taken up. I might say, right here, that as far as the line you refer to is concerned, while it is in my territory it is not under my jurisdiction; it is under the jurisdiction of the chief engineer, at San Francisco, Mr. Hood, who is in charge of construction.

Q. How long ago was construction work on that line abandoned?

A. I think it was started early in 1907.

Q. Wasn't it earlier than that?

A. I don't think it was earlier than that. To the best of my recollection it was in 1907. I would not know definitely, because it is not under my charge.

Q. Do you remember the time that the Southern Pacific Company bought the Spreckles road, running out of Coos Bay?

A. No, I do not.

Q. Called the Roseburg & Eastern, or Roseburg & Western?

7346 A. I do not.

Q. You don't remember about that?

A. No.

Q. You don't remember as to whether this line from Drain was started before the Southern Pacific bought that Spreckles line?

A. I do not know. I know that they did acquire such a line but I don't know when.

Q. You don't know whether the construction of the Drain line antedated that or not?

A. I do not.

Q. At any rate, the line has not been built, has it?

A. It has not been completed.

Q. Has any work been done on it for three or four years?

A. I think not, although I could not say definitely for the reason stated previously.

Mr. DUNNE. You asked him a question as to how long construction work had been abandoned. You used the word "abandoned" in your question, which did not respond to his testimony. I did not understand him to say that construction work had been abandoned at all.

Mr. SEVERANCE. Well, it had not been prosecuted; that is what I meant.

Mr. DUNNE. "Suspended" would have been a more appropriate word.

Mr. SEVERANCE. That is a very technical objection. I am quite willing to change it in that way, though. I only want to get the facts.

Q. Mr. Dunne thinks the word "abandoned" is not a good word. What I meant by that was, that you stopped work—whether for ever or for a while, I don't know.

A. Work has been stopped; I did not stop it.

7347 Q. You did not stop it, no. When I say "you", I meant your company. And you have not resumed it, or your company has not?

A. I don't think so.

Q. Is there any railroad in Oregon, at the present time, west of the Southern Pacific Shasta Route, that is not owned by the Southern Pacific Company, except the line running up to Astoria from Portland, owned by what you have spoken of as the North Bank road?

A. Yes, sir.

Q. Where is it?

A. A line running from the Willamette River, opposite Salem, through Dallas, Oregon, and into the timber; known as the Salem Falls City & Western.

Q. Is that a timber road?

A. Its main traffic is timber.

Q. Who is that owned by?

A. I could not say who owns it. The president of the company is Mr. Gerlinger, of Portland.

Q. How long a line is that?

A. I should say about 30 miles.

Q. And runs westerly from Salem?

A. Yes, sir, towards the coast.

Q. Is there any other?

A. I don't know of any.

Q. Is there any line of road in Oregon, east of the lines of the Southern Pacific, that is not owned either by the Southern Pacific, the Oregon Railroad & Navigation Company, or the Oregon Short Line, with the exception of the line that you speak of that is under construction by the Hill interests up the Des Chutes River?

A. Yes, sir.

Q. Where is it located?

A. A line running out of Cottage Grove, known as the Oregon Southeastern.

Q. Where is Cottage Grove located? (The witness indicates on the map.) How long a line is that?

A. 12 to 15 miles.

Q. Who owns that?

A. I don't know. I could not tell you who does own it. I understand it is owned by eastern people.

7348 Q. Then there is also the line from Baker City to Tipton, that you spoke of before?

A. Yes.

Q. Outside of those, are there any others?

A. The line known as the Pacific & Eastern, going east from Medford, Oregon. That is down the Rogue River valley, close to Ashland.

Q. How long is that line out of Medford?

A. I think it is 13 miles long, and there are about 20 miles or more under construction at the present time.

Q. Who is building that?

A. A man by the name of John R. Allen.

Q. Can you name any other lines?

A. I think those are all.

Q. Then, that extends, after the other 20 miles are completed, about 31 miles?

A. About 33 miles.

Q. How far is it across the state of Oregon, from the Southern Pacific Shasta route to Huntington?

A. By the O. R. & N. or across the country?

Q. No, I mean across the state. What distance is it on the map?

A. I should say approximately 400 miles; I couldn't tell you the exact distance.

Q. And it is about the same distance south from the Columbia River to the southern boundary of the state?

A. I should think, roughly speaking, about 325 miles.

Q. That is, as the crow flies in each case?

A. Yes, sir.

Q. The cost of the Corvallis & Eastern does not appear in any of these statements?

A. It does not.

Q. Do you know what dividends the O. R. & N. Company pays, or is that something that does not come under your knowledge?

A. No, sir.

7349 Q. You don't know about that?

A. I don't know about that.

Q. You don't know anything about the earnings?

A. Yes, I know something about the earnings.

Q. What I want to get at is, whether I can examine you (or will someone in the accounting department be better?) to find out about the extent of the earnings and the dividends declared, and all that.

Mr. DUNNE. Do not the annual reports show that?

Mr. SEVERANCE. Possibly. But Mr. Mahl will know anyway; I will not bother Mr. O'Brien.

Mr. LOOMIS. You can get exact information on this subject from Mr. Mahl.

Q. You do not know whether these betterments that you have described were paid for out of earnings or out of new capital?

A. I do not.

Q. Your lines up in Washington reach directly to Spokane, don't they?

A. Yes, sir.

Q. How is your mileage, as compared with the North Bank, from Portland to Spokane—about the same?

A. No, our line is about 42 miles longer.

Q. You also reach Walla Walla?

A. Yes, sir.

Q. And you have branches that pretty well cover that fruitful part of southeastern Washington, haven't you?

A. Yes.

Q. And you also reach the Coeur d'Alene county in Idaho, as you have stated?

A. Yes, sir.

Q. Do you go to Lewiston, Idaho?

A. We go to Lewiston with the joint line—joint with the Northern Pacific.

Q. So that you reach Lewiston in that way?

7350 A. Over the Camas Prairie Railroad.

Mr. DUNNE. What do you mean by a joint line with the Northern Pacific?

WITNESS. The line from the Navigation tracks at Texas Ferry, that is, the main Spokane line, to Lewiston, was built by the O. R. & N. Company, but it had been turned in with some lines which the Northern Pacific built north of Lewiston and is now being operated as a joint line by the Camas Prairie Railroad Company.

Q. They turn over traffic to you and the Northern Pacific, indiscriminately?

A. The line is operated strictly independent, and the traffic departments have to solicit their own business. The employees of the joint line are neutral.

Q. You each have your soliciting agency looking after the business?

A. Yes.

Q. All of the lines in eastern Washington, that you have spoken of, are competitive with the Northern Pacific, aren't they?

A. Yes, sir.

Q. And to some extent with the Great Northern? Spokane is, I suppose.

A. At Spokane, and through the Spokane Inland Railroad, which I understand is controlled by Mr. Hill or the Great Northern, which goes down through the Palouse country.

Q. The Palouse country is a very rich wheat country, isn't it?

A. Yes, sir.

Q. And you reach that with your rails?

A. Yes, sir.

Q. Turning to Defendants' Exhibit 187——

A. O. R. & N. or Southern Pacific?

Q. Southern Pacific.

A. What is that exhibit, please?

Q. That is the consist of through passenger trains. I notice
7351 by this exhibit that in 1900 and continuously up to 1909 you ran 4 trains per day.

A. 4 regular trains, yes, sir.

Q. That would be 2 in each direction.

A. 2 in each direction.

Q. Between San Francisco and Portland?

A. Yes, sir; but I would like to add there, that these trains of course run in two sections and three sections, as the business required. We had only 2 regularly scheduled trains, but we frequently ran two and three sections of No. 15 and No. 16, which were the popular trains.

Q. That is what I wanted to get at. Take January, 1900, as an example. In that exhibit it shows 4 trains, 4 mail cars, 7 baggage cars, 6 tourist cars, 10 coaches, 2 dining cars and 6 sleeping cars. That was the regular scheduled one-section train, wasn't it?

A. Yes, sir, the regular equipment for one section.

Q. That does not mean 6 sleepers to each one of the 4 trains?

A. No, that is 3 sleepers to each, or 2 sleepers to each.

Q. How could that be? That would be 1-1/2 sleepers.

A. That is an average of 1-1/2. We took the equipment that was used there. One day they might run 3 sleepers, the next day they might run 2, and the next day they might not run but one.

Q. But that means 6 sleepers for 2 trains, or 6 sleepers for 4 trains?

A. 6 sleepers for 4 trains.

Q. And this does not purport to show, as you said, the extras that you might run?

A. No, sir, nor the sections.

Q. That is what I mean; I meant to say the extra sections.

A. That is right.

Q. And that would also be true as to the 1910 statement where you have 6 trains?

A. Yes, sir.

7352 Q. When did you put on that extra train—the third San Francisco-Portland train?

A. About four or five or six months ago. That is the Shasta Limited fast train.

Q. That is faster than the old train?

A. Yes.

Q. What time does that leave Portland?

A. 6 o'clock in the evening.

Q. When does it reach San Francisco?

A. It is a 27-hour run.

Q. The old time was what—36 hours?

A. 36.

Q. Are the other trains still 36-hour trains?

A. I think they are.

Q. Those passenger trains, as you say, often have extra sections. They run pretty full as a rule, don't they?

A. In one direction.

Q. Which way?

A. It all depends on the season. During certain seasons the traffic is heavy southbound, and then the tide of travel turns the other way. As a general rule, when it is running heavy in one direction, it is light in the other.

Q. But the traffic was sufficient so that you felt justified in putting on the third train?

A. Yes. The third train is a strictly first-class Pullman train; it doesn't handle any second-class business.

Q. Now, turn to Exhibit 167.

A. Southern Pacific?

Q. No, Oregon Railroad & Navigation. That is the consist of through passenger trains. Are those trains Chicago trains, or Omaha trains, or what do you mean by through passenger trains in that connection?

A. This statement covers the through train from Portland to Huntington and beyond. They are, all of them, either through trains or have through connections.

7353 Q. That is, by "through" you mean to Omaha?

A. Omaha and Chicago.

Q. I merely wanted to know what you meant by "through passenger trains."

A. They are either through or have through connections with Union Pacific trains.

Q. And this does not include the trains running up to Spokane?

A. No, this is just between Portland and Huntington. I can furnish a list of the Spokane trains if you wish.

Q. I don't care about it; I merely wanted to be sure that I understood what this statement was intended to cover.

Mr. DUNNE. Mr. Severance, I think probably this does include the Spokane train—one train a day each way. Mr. O'Brien may have misunderstood the scope of that showing.

WITNESS. I guess that is right. That includes one train; that is the through train from Portland to St. Paul via Spokane and the Canadian Pacific.

Q. That is, the 10 trains each day should be diminished by 2, if we are to refer only to Chicago connections?

A. Yes.

Q. How is it about the trains shown in January, 1909? The Soo-Spokane route was not open then to Portland, was it?

A. No, sir, it was not.

Q. Then, that 10 should be 8, in order to make a comparison between the other years and 1910?

A. On the through Omaha line, yes, sir.

Mr. DUNNE. That one train a day to Spokane applies to all of these years; as well to the previous years as to 1910?

WITNESS. Excepting that, previous to putting on that through
7354 Portland-St. Paul train by the Canadian Pacific, via Spokane, the train was strictly a local train between Portland and Spo-

kane, but the train now does business between Spokane and Portland, and then it goes on through to St. Paul and Minneapolis over the Canadian Pacific.

Q. As I understand it, in 1900, when this exhibit shows 4 trains a day, that would be only one train each way by Huntington?

A. That is all.

Q. And after that 2 trains each day by Huntington?

A. Yes. In other words, the Spokane train should be taken out, if you want to get the actual number of trains by way of Huntington and Omaha.

Q. And at present there would be, as I understand it, 4 trains by Huntington?

A. Yes, sir.

Q. Each way?

A. Yes; as against one each way in January, 1900.

Q. We had from the Union Pacific people the scheduled time made by their freight trains, as far as Granger on Portland business, and as far as Ogden on San Francisco business. Are you able to give us the time of these freight trains through to Portland?

A. I am not.

Q. Who is the one man that knows the whole thing for all three lines? Haven't you a through time table that shows the movement of those freight trains?

A. The O. R. & N. haven't any. I don't know whether the Union Pacific have or not. I can give you the time of the through trains over the Navigation lines, but not the other.

Q. That would leave it with the Short Line out?

A. Yes.

Q. How long does it take to get over the Navigation lines?
7355 I don't mean how long it takes but how long is it scheduled to take. You know, do you, that this train you are about to testify concerning is the same one they spoke of that comes out through Oregon?

A. Yes; that handles the Oregon and Washington freight?

Q. Yes.

A. We are consuming 34 hours and 55 minutes from Huntington to Portland, a distance of 404 miles. That includes the terminal stops, which approximate from 5 to 6 hours.

Q. Do you have any mountains to climb over between Huntington and Portland?

A. Yes, sir, we do.

Q. The Blue Mountains?

A. A spur of the Blue Mountains.

Q. What is your maximum grade there, going west?

A. We have a maximum of 116 feet to the mile.

Q. How many miles?

A. Practically 116 for a distance of 17 miles, at one point, and a distance of 11 miles at another point. Practically a 116-foot grade; it is the controlling grade.

Q. You say 404 miles?

A. Yes, sir.

Q. And 34 hours and 55 minutes. How many miles an hour would that be—about 12?

A. A trifle under 12.

Q. Between 11½ and 12?

A. Between 11¾ and 12.

Q. As far as Umatilla on that line, you have the Spokane and Idaho business, too, haven't you?

A. Yes, sir.

Q. Is it a single track line?

A. Yes, sir.

Q. All the way?

A. Yes, sir.

Q. How does your density of traffic compare with that on the main line of the Union Pacific, say between Umatilla and Portland?

A. Between what points on the Union Pacific?

7356 Q. The main line, between Ogden and Omaha.

A. I should say we are handling not over 33⅓ per cent of the number of trains they are—possibly 40 per cent.

Q. I am speaking of Umatilla and Portland.

A. Well, probably 50 per cent, I should say offhand. I have never figured it out.

Q. That is a mere estimate without stopping to make figures?

A. Yes.

Q. You never did look it up?

A. No.

Q. Outside of that climb of 28 miles, where you have a little over a 2 per cent grade, have you any other climbing to do going west?

A. We have about 4 miles of maximum .65 per cent grade between North Powder and Telocaset.

Q. Any more?

A. Nothing to speak of; rolling country, up and down.

Q. You have no double track whatever?

A. No, sir.

Q. And with those handicaps and this extreme grade, you are able to make it, you say?

A. Yes, sir, by reducing our train tonnage very materially. We are running that fast train now with practically 75 per cent of the regular rating for other trains.

Q. Why do you do that?

A. To expedite the business.

Q. Why do you try to expedite the business to such an extent instead of operating economically, the way the Union Pacific does at Ogden?

A. I think the conditions are entirely different. We have a very peculiar situation at Portland. We do not own our own tracks, and operate on the west side of the Willamette River. The work is done by the Northern Pacific Terminal Company, which is owned

7357 jointly by the O. R. & N., the Southern Pacific and the Northern Pacific. The Terminal Company handles the business as it is delivered to them by each line. For instance, the Northern Pacific train comes in at 6 o'clock in the morning, and an O. R. & N. train comes in at 6:05, and a Southern Pacific train comes in at 6:10, and they are handled in their order. Inasmuch as practically all the merchandise business is handled on the west side of the river, in order to make early morning delivery we expedited this business so that the train would reach Albina and be delivered to the Terminal Company and leave a leeway of 5 or 6 hours for the freight to be weighed, switched and delivered at the warehouses as well as on the industry tracks which are located all through the Terminal yards. In other words, a train getting into Albina at 4 o'clock in the morning, by the time it was broken up by the Navigation switch engines, put into a transfer, and delivered on the west side of the river, would probably not get over there until 7 o'clock in the morning. If we found a Northern Pacific or Southern Pacific freight train in ahead of us, in all probability that freight would not be weighed up and spotted on the team tracks and on the industry tracks and on the house tracks until 10 or 11 o'clock. That meant practically delivery the following day, for the reason that the merchants there do all their teaming on the inbound business in the forenoon and use the afternoon exclusively for delivery of their outbound business. So that if a car was not placed on the west side, say, at 8 o'clock
7358 in the morning, in all probability it would not be touched by the teamsters until the following day, and it would make probably 24 hours later delivery.

Q. And you would be handicapped in competing with the Northern Pacific to that extent?

A. No, we would not be handicapped competing with the Northern Pacific, because they would probably be in the same boat if their trains get in along early in the morning; but their trains arrived, say, 2 or 3 o'clock in the morning, which gave the Terminal Company a reasonable time to break up the trains, weigh and spot the cars at the different locations. Their trains were delivered into the Terminal yards direct, while our trains were delivered at Albina, and we had to switch and make transfer. We do not run any freight trains on the west side of the river; our terminals are on the east side.

Q. If you were a day longer in getting stuff over to the merchants than the Northern Pacific, it would be a handicap to you in getting business?

A. I presume it would.

Q. It is for the sake of getting business and making prompt deliveries that you expedite this movement?

A. I assume that is the point in question.

Q. The other day there was introduced a schedule (it was introduced in connection with the testimony of Mr. Kruttschnitt, I believe) showing the average movement per car per day on the Union Pacific to Ogden—well, it was stated to be the entire Union Pacific proper system—41½ miles per day.

Mr. LOOMIS. That was in connection with Mr. Mohler's testimony.

Mr. SEVERANCE. Yes, in connection with Mr. Mohler's testimony.

7359 Q. You were present when that was introduced, when Mr. Mohler was examined about it, weren't you?

A. No, I was not here.

Q. Well, that was the fact anyway. Have you those figures as to the O. R. & N.?

A. I think the O. R. & N. mileage runs from 28 to 31 miles a day.

Q. What do you mean—runs from one to the other?

A. It varies.

Q. It varies in different years?

A. It varies every month. For instance, statements are made up monthly. I haven't them with me. That is my recollection.

Q. Have you any data in town here, so you could furnish it this afternoon?

A. I don't think I have, no, sir; I know I haven't.

Q. For some reason, the schedule that was made up did not show the O. R. & N. or the Short Line, and I wondered if you could give it.

A. No.

Q. You were comparing with the other lines from the Missouri River, like the Santa Fe and the Great Northern and the Northern Pacific, and you eliminated your own through line to Portland for some reason. I don't know why, and I wanted to know.

Mr. DUNNE. I think the statement can be produced for all the lines.

WITNESS. My recollection is that Mr. Kruttschnitt's testimony covered the Union Pacific system, which includes the Union Pacific, the Short Line and the O. R. & N.

Mr. DUNNE. He gave it generally, and he gave it with respect to the constituent properties, and I think his testimony as to the Navigation Company was substantially what you have testified to.

7360 Mr. SEVERANCE. If he did, we can find it this noon. It was not on the schedule and I did not recall that Mr. Kruttschnitt gave it. He gave it for the Southern Pacific and explained why that was so low.

Mr. DUNNE. He gave the Union Pacific proper; he gave the Short Line; he gave the Navigation Company, and he gave the Southern Pacific, and he gave the Sunset, and then he gave railroads generally in the United States.

WITNESS. That is my recollection.

Mr. DUNNE. Your recollection accords with mine, doesn't it?

WITNESS. It does.

Mr. SEVERANCE. We will look it up this noon and see whether he did or not.

(A recess was then taken until 2 o'clock p. m., at which time the witness was recalled, and his cross-examination resumed, by Mr. Severance.)

Mr. SEVERANCE. I find Mr. Kruttschnitt did give that data, but not in the same figures that Mr. O'Brien recollected.

Mr. LOOMIS. Mr. O'Brien has those details, and I think he wishes to add to his testimony in regard to some of those lines.

Q. Mr. O'Brien, I find that Mr. Kruttschnitt in his testimony did give those figures as to the average movement per car per day of freight cars. He gave the Oregon Railroad & Navigation Company at 23.9 instead of 31 as you gave it.

A. I think he is right. I have a statement made up by the Bureau, the American Railway Association, handling freight car
7361 matters. It is for August, 1909. The statement is dated February 10, 1910. I assume this is the last period they have this information worked up for. In referring to it I find that the O. R. & N. made an average of 24.9.

Q. Whatever period it was that Mr. Kruttschnitt intended to cover by this, he gave it as 23.9. It was for the year ending June, 1909; he had the entire year's average.

A. Well, that is not far out of the way. This is for the month of August, and during a busy period.

By Mr. LOOMIS:

Q. Does your bulletin also show the average movement per car per day for the Union Pacific for the same month?

A. Yes, sir.

Q. What is it?

A. 47.1.

Q. Does it show the Great Northern?

A. Yes, sir.

Q. How much?

A. 25.1.

Q. Does it show the Northern Pacific?

A. Yes, sir.

Q. What is that?

A. 23.9.

Q. Does it show the Atchison, Topeka & Santa Fe Railroad?

A. Yes, sir.

Q. What is that?

A. The Atchison, Topeka & Santa Fe Railroad is 27.6 miles, and the Atchison, Topeka & Santa Fe Coast Lines (they have it divided up) 49.5 miles.

Q. That indicates the average movement per car per day, if I understand you correctly?

A. Average miles per car per day.

Q. Mr. Severance called for some details in regard to loss and gain in branch line mileage shown on one of the exhibits introduced in evidence in connection with your direct examination. Have you prepared it?

A. Yes, sir.

7362 Q. Will you produce it, please?

(Witness produces paper).

Q. Is it a correct statement?

A. Yes, sir.

The paper produced was marked Defendants' Exhibit 210, and offered in evidence.

Defendants' Exhibit 210 is as follows:

DEFENDANTS' EXHIBIT 210

(O'Brien)

THE OREGON RAILROAD & NAVIGATION COMPANY

BRANCHES

Detail of loss and gain in branch line mileage shown on exhibit—Rail renewals, July 1st, 1900, to June 30th, 1909.

	Miles.	Total miles.
Lines constructed:		
O. R. R. & N. Co.—Sierra Nevada High Line	4.46	
do. Dayton-Turners, Wash.	11.65	
do. Elgin-Joseph, Oregon	62.83	
do. East Portland-Albina, Ore., (second main track)	1.25	
do. Albina-St. Johns, Ore	5.10	
do. St. Johns-Maegley Jct., Ore	3.79	
Columbia River & Oregon Central R. R. Co., Arlington-Condon, Oregon	45.31	
Umatilla Central R. R. Co., Pilot Rock Jct.-Pilot Rock, Or.	14.21	
Acquired by purchase:		
Columbia Southern Ry. Co., Biggs-Shaniko, Ore	70.00	
Washington to Howard Streets, Spokane, Wash., (purchased from Spokane Union Depot Co.)	.40	
		219.00
Branch Mileage changed to Main Line:		
Winona-Seltice, Wash., via Oakesdale, Wash.	47.50	
East Portland-Albina, Oregon, first track	1.25	
do. do. second track	1.25	
		50.00
Net Gain, Branch lines		169.00

7363 Q. I believe you wish to make a statement in regard to lines being constructed in Oregon. You may do so now.

A. Mr. Severance asked me this morning to name the number of the different railroads operating in the state of Oregon not owned or controlled by the Oregon Railroad & Navigation Company and the Southern Pacific.

Mr. SEVERANCE. Or the Oregon Short Line.

WITNESS. Or the Oregon Short Line. I cannot testify for the line east of Huntington. I think on the Oregon Railroad & Navigation lines I mentioned the Sumpter Valley, the line leading from

Baker City to Tipton, as the only one. I wish to add to that the Great Southern—a line of from 15 to 20 miles long, running from Dalles to Dufer; and the Mount Hood Railroad, a line about 15 miles long, running from Hood River in a southerly direction. I don't know the terminus of the line at the present time. They have put on a slight extension. Also the Central Railway of Oregon, a line about 10 miles in length, in the Grand Ronde Valley, running from Union to Cove; also the Oregon Electric, running from Portland to Salem, in the Willamette Valley, with a branch line serving Hillsboro, Oregon, with a mileage of about 65 miles.

Q. Does it do a freight business as well as a passenger business?

A. Freight and passenger. Also the Portland Railway, Light & Power Company, operating a line from Portland to Oregon City and a line from Portland to Casadero.

Q. Does it do a freight business as well as a passenger business?

A. These are the portions of the line that do the freight business.

7364 The Portland Railway, Light & Power Company, I might explain, owns and controls all the city lines of Portland, also the suburban lines, handling passenger traffic, but the lines I refer to now are the lines that they handle both passenger and freight business over. I would also like to make another statement. Mr. Severance asked me this morning in regard to new lines under construction on the Southern Pacific. I did not include in the statement I made, which has been used as an exhibit, the Oregon Western, which is the name of the corporation, built from Drain to Coos Bay, or the Oregon Eastern, which is built from Natron in a southerly direction, connecting up with the Southern Pacific line at Klamath Falls. I wish to state that both of these lines, while a part of them are in my territory, are not under my jurisdiction, the construction work being under the jurisdiction of the chief engineer of the Southern Pacific Company, Mr. William Hood, located at San Francisco. The Oregon Western, however, has at the present time under construction, 25 miles of line south from Natron.

Mr. SEVERANCE. You don't mean the Oregon Western, do you?

WITNESS. The Oregon Eastern I should say. Also 35 miles in a northerly direction from Klamath Falls, and it is my understanding that at the end of the fiscal year next year's appropriations will carry sufficient funds to finish the balance of the line between those points, I think about 100 miles, closing up the gap between the extensions.

By Mr. SEVERANCE:

7365 Q. You spoke just now of the Oregon Western. You do not mean to say that the Oregon Western, the projected line from Drain to Coos Bay, is under construction, do you?

A. No: work on that has been suspended.

Q. Suspended several years ago?

A. Yes. But I think work will be started at an early date.

Q. You think there has been a change in the view since the change of management of the road?

A. No, I wouldn't say that. I think possibly financial conditions might cause the change. I have reason to believe that work will be resumed on this line at an early day. I don't know definitely that it will be.

Q. You don't know that definitely?

A. No.

Q. Now, the Oregon Eastern, that is the corporation, as I understand, building the line running around the east end of the Siskiyou Mountains, up to Klamath Falls?

A. I don't know whether the line from Klamath Falls to Weed, where it connects with the present Portland-San Francisco line, has been built under the Oregon Eastern, but I know the work from Klamath Falls north, now under construction, and the work from Natron south, now under construction, is built under the Oregon Eastern corporation.

Q. As I understand it, this line was built from Weed, which is in California, isn't it?

A. Yes.

Q. Up as far as Klamath Falls?

A. The line has been built.

Q. That is what I say. A Southern Pacific line—we will put it that way.

A. Yes, that is right.

Q. It was proposed and it was intended when that was started, wasn't it, to carry that line up to Natron?

A. Yes.

Q. And connect with the Southern Pacific, so as to avoid
7366 the grade with the Siskiyou Mountains?

A. That is right.

Q. That is the line you had in mind?

A. Yes, the Oregon Eastern.

Q. Now these electric lines that you spoke of, the Oregon Electric line running up to Salem, with a branch line to Hillsboro, and the Portland Railway, Light & Power Company, Portland to Oregon City and Portland to Casadero: they are ordinary electric railroads, but they do freight as well as passenger business?

A. Yes, sir.

Q. Is it necessary in through shipments to transfer, or do they take your cars right out on those lines? or do they do a local business only?

A. I would not say definitely about that. I think Mr. Miller can answer that question. I will say as far as the Portland Railway, Light & Power Company is concerned that they do not have to transfer. We deliver our equipment to the Portland Railway, Light & Power Company for loading at points on their line. We interchange not only traffic but equipment with them.

Q. They run up as far as Oregon City. How far is that out of Portland?

A. About 10 miles.

Q. That is where the paper mills are, is it?

A. Yes, sir.

Q. And where is the other town—Casadero?

A. That is out in an easterly direction from Portland.

Q. How far?

A. I should say about 20 miles.

Q. And that company acts really as a feeder to the Southern Pacific?

A. The Southern Pacific and the O. R. & N. They have a rail connection with us also at Fairview, which is about 12 or 14 miles out of Portland.

7367 Q. On the Southern Pacific?

A. No, on the O. R. & N. And they make a direct transfer to the Southern Pacific at East Portland.

Q. Now, going back to these other lines that you spoke of: You first mentioned one with a very large name and a very small mileage—the Great Southern.

A. Yes, sir.

Q. Which you said ran from Dalles to Dufer?

A. Yes.

Q. 12 miles long?

A. 12 to 15 miles long: I don't know just exactly.

Q. Who owns that?

A. It is owned by a gentleman by the name of Heimrich, living at Portland.

Q. What is it operated as—for general railroad purposes, or as a lumber road?

A. General railroad purposes—merchandising, wheat; it serves an agricultural district.

Q. Brings agricultural products in to The Dalles and interchanges there with the O. R. & N.?

A. Well, partially so.

Q. A good deal of the wheat raised on that line is brought to The Dalles and then ground into flour and shipped out either by rail or water?

A. Yes.

Q. The steamboats go to The Dalles?

A. Yes, sir, the river boats.

Q. The Mount Hood road, you say, runs 15 miles from Hood River. Is that a lumber road?

A. The principal commodity is lumber, but they handle quite a little fruit. It also serves the Hood River fruit district.

Q. Who owns that road?

A. David Eccles, of Ogden, Utah.

Q. He has a mill at Hood River, hasn't he?

A. He has a mill at the upper end of the line.

7368 Q. He has no mill right at Hood River, then?

A. No, sir.

Q. But his mill is at the upper end of this line, and he built this line to give himself an outlet?

A. That was the principal object of the road.

Q. Now, this other road with a large name—the Central Railway of Oregon: where is that located?

A. That runs from Union to Cove in the Grande Ronde valley.

Q. Which line is Union on?

A. The O. R. & N.

Q. How far out of Portland?

A. 310 miles.

Q. That is over toward the eastern end of the state?

A. The eastern district.

Q. How near to Huntington—about 100 miles?

A. About 90 miles.

Q. And that road, you say, is about 10 miles long?

A. Yes, sir.

Q. Who owns it?

A. It is controlled now, I believe, by some New England people.

Q. Narrow gauge, or standard?

A. Standard gauge.

Q. What kind of country does that tap?

A. Agriculture, fruit; handles wheat, fruit, beets, merchandise. I might add that the town of Union is not on the O. R. & N.; it is located about 4 miles off the O. R. & N. They have a Union station, but the town is not on the railroad. This line serves the town of Union, making connection between the railroad station and the town.

Q. It connects with the O. R. & N.?

A. Yes.

Q. Now, on Exhibit 210, giving the list of branches constructed from July 1, 1900 to June 30, 1909, the first one mentioned is Sierra Nevada, High Line. Where is that?

A. May I see that exhibit?

7369 Q. (Handing exhibit to the witness.) Sierra Nevada, High Line, 4.46 miles.

A. That is the Sierra Nevada line in the Coeur d'Alene district, northern Idaho.

Q. Where is the Dayton-Turners line, 11.65 miles?

A. That is in the Walla Walla district, about 20 miles east.

Q. It is a feeder to your line there?

A. Yes. East of Walla Walla.

Q. And the Elgin-Joseph line, 62.83? That is the one you spoke of this morning, running northerly?

A. Yes, from La Grande.

Q. And the next is the East Portland-Albina, a mile and a quarter; that is simply a track in the city?

A. That is a track in the city—double track.

Q. The next is Albina-St. Johns, 5.10 miles. That is the one you spoke of this morning?

A. Yes.

Q. And the next is St. Johns-Macgley Junction, 3.79. You spoke of that this morning?

A. Yes.

Q. The next is the Columbia River & Oregon Central Railroad Company, from Arlington to Condon. That is the one you spoke of this morning?

A. Yes.

Q. And the Umatilla Central is the one that runs out to Pilot Rock, that you spoke of this morning?

A. Yes, sir.

Q. And the other lines, acquired by purchase, are the Columbia Southern, the Shaniko line, which you described this morning, and the Washington to Howard streets, 4/10 of a mile in the city of Spokane?

A. Yes, sir.

Q. And that is the total branch line mileage in that period of nine years?

A. Yes, sir.

O

Volume X.

(EVIDENCE FOR DEFENDANTS.)

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1911.

No. 820. 416

THE UNITED STATES OF AMERICA, APPELLANT,

vs.

THE UNION PACIFIC RAILROAD COMPANY ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF UTAH.

FILED OCTOBER 9, 1911.

No. 993—In Equity.

IN THE

Circuit Court of the United States

FOR THE DISTRICT OF UTAH.

THE UNITED STATES OF AMERICA,
Complainant,

v.

THE UNION PACIFIC RAILROAD COMPANY; THE OREGON SHORT LINE RAILROAD COMPANY; THE OREGON RAILROAD & NAVIGATION COMPANY; THE SAN PEDRO, LOS ANGELES & SALT LAKE RAILROAD COMPANY; THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY; THE SOUTHERN PACIFIC COMPANY; NORTHERN PACIFIC RAILWAY COMPANY; GREAT NORTHERN RAILWAY COMPANY; FARMERS' LOAN & TRUST COMPANY; EDWARD H. HARRIMAN, JACOB H. SCHIFF, OTTO H. KAHN, JAMES STILLMAN, HENRY H. ROGERS, HENRY C. FRICK, and WILLIAM A. CLARK,
Defendants.

EVIDENCE AND PROCEEDINGS BEFORE THE SPECIAL EXAMINER.

Volume X.—Defendants.

WITH LIST OF WITNESSES AND EXHIBITS.

INDEX OF WITNESSES AND EXHIBITS IN VOLUME 10.

(For complete index see end of last volume.)

WITNESSES.

	Original.	Print.
Calvin, E. E. (2)	7370	4402
Fay, Thornwell	7380	4408
Brewer, A. F	7415	4431
Richardson, G. F	7453	4454
Miller, R. B	7498	4484
Luce, George W	7592	4542
Stebbins, C. S. (2)	7612	4555
Bartholomew, B. G	7686	4606
Plaisted, Frank H	7691	4609
Reeves, John A	7717	4624
McCormick, Ernest O. (2)	7724	4629
Fee, Chas. S	7829	4690
Lomax, E. L	7842	4698
Kahn, Otto H. (2)	7862	4711
Kelly, W. R	7949	4763
Hanneford, J. M	8035	4811
Campbell, B	8068	4832
Mehl, Wm. (2)	8127	4870

EXHIBITS.

	Original.	Print.
Defendants' Exhibit 211	7417	4433
" " 212	7436	4443
" " 213	7437	4444
" " 214–228 (photographs not printed)	7439	4445
" " 45–A, Supplemental	7615	4557
" " 45–B, Supplemental	7617	4560
" " 45–C, Supplemental	7619	4561
" " 45–D, Supplemental	7621	4562
" " 45–E, Supplemental	7624	4564
" " 45–F, Supplemental	7625½	4566
" " 45–G, Supplemental	7681	4602
" " 46–A, Supplemental	7627	4567
" " 47–A, Supplemental	7629	4568
" " 47–B, Supplemental	7630	4569
" " 48–A, Supplemental	7635	4572
" " 48–B, Supplemental	7636	4573
" " 49–A, Supplemental	7639	4575
" " 49–B, Supplemental	7640	4576
" " 50–A, Supplemental	7642	4577
" " 50–B, Supplemental	7643	4578
" " 51–A, Supplemental	7647	4580
" " 52–A, Supplemental	7649	4581
" " 53–A, Supplemental	7651	4583
" " 53–B, Supplemental	7652	4584
" " 54–A, Supplemental	7676	4599
" " 55–A, Supplemental	7656	4586
" " 55–B, Supplemental	7657	4587
" " 55–C, Supplemental	7658	4587
" " 55–D, Supplemental	7660	4589
" " 229	7687	4607
" " 230	7688	4608

		Original.	Print.
Defendants' Exhibit 231 (map, not printed)		7695	4612
" " 232		7795	4671
" " 233		7843	4699
" " 234		7844	4700
" " 235		7845	4700
" " 236		7848	4702
" " 237		7851	4704
" " 238		7972	4776
" " 239		7982	4782
" " 240		7992	4788
" " 241		8026	4807
" " 242		8033	4810
" " 243		8119	4867
" " 244		8121	4868
" " 244½ (map, not printed)		8125	4869
" " 245		8125	4870
" " 246 (map, not printed)		8126	4870
" " 247		8127	4871
" " 248		8128	4871
Complainant's Exhibit 211		7684	4605

[PROCEEDINGS, NEW YORK, FEBRUARY 25, 1910—Continued.]

7370 E. E. CALVIN,

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination by Mr. DUNNE.

Q. Mr. Calvin, you are connected with the Southern Pacific Company, are you not?

A. I am.

Q. In what capacity?

A. Vice-president of the Southern Pacific Company and general manager of the Pacific System lines west of the Rio Grande River, New Mexico; Sparks, Nevada; and south of Ashland, Oregon.

Q. Will you state briefly your railroad experience and capacities?

A. I began in 1872, as messenger boy in the telegraph office. From that time until 1877 served as telegraph operator and agent upon the Big Four line, with the exception of about a year and a half when I went to school. I went to the Union Pacific in 1877, and was telegraph operator, station agent, conductor, train despatcher, train master, until May, 1887, when I went to the Missouri Pacific as superintendent, remaining there four years. Returned to what is now the Oregon Short Line (it was then a part of the Union Pacific System) as superintendent of the Idaho division, in February, 1891. Remained in that capacity for four years, and then spent two years as general superintendent of the International & Great Northern Railroad in Texas, returning to the Oregon Short Line as general superintendent at the time of the organization, after the receivership, on March
16, 1897. Appointed assistant general manager about three
7371 years later, and remained there until the 1st of April, 1904, when I went to Portland as vice-president and general manager of the O. R. & N. Company and general manager of the Southern Pacific Company lines in Oregon. In February, 1905, went to San Francisco as vice-president of the Southern Pacific Company and general manager of the lines I have described.

Q. Mr. Severance asked some questions this morning as to whether the Oregon branch line to Shaniko had been extended. Do you know anything about that?

A. I knew about it during the time I was in charge of those properties, yes.

Q. When was that?

A. From April 1, 1904, to February 22, 1905.

Q. What connection did you have with the extension or non-extension of that branch to Shaniko?

A. Within a few days after taking charge of those properties I received instructions to extend that line into central Oregon. I asked for a little time to investigate it, and after having made an investigation, protested against doing it.

Q. Why?

A. Because I did not think it was the proper way to develop central Oregon.

Q. Will you state that a little more fully?

A. The products of central Oregon are small grain, live stock, wool, and timber, principally. The live stock, timber, and wool move eastward. I thought it unprofitable to build a line that would necessitate moving that traffic over a heavy grade to the O. R. & N. main line along the Columbia River, over two divides between there and Huntington, recommending instead the building of an
7372 east and west line through central Oregon, which would allow the products I have mentioned to move out over a practically level or generally descending grade to the Missouri River. The grain produced in central Oregon, or which would be to a greater extent if they had more railroad facilities and more irrigation, would of course go to the Pacific coast either for milling or export. It was, therefore, my recommendation that instead of building these lines in farther south from the Columbia River than a distance necessary to take care of the grain on the plateau country, which generally extends from 30 or 40 miles south from the Columbia River, that this east and west line be built and a line around the Siskiyou Mountains, which we are now constructing.

Q. The statement was made here, inadvertently, I think, by Mr. Lincoln, that the Southern Pacific terminals had been destroyed at the time of the fire. I think he was speaking then of the congestion of traffic that supervened upon the San Francisco fire. The terminals were not destroyed, were they?

A. No, they were not destroyed.

Q. Was there a condition of congestion?

A. Oh, yes.

Q. How did that condition arise?

A. From the destruction of the warehouses and jobbing houses and retail stores of the city, which necessitated the ordering of new stocks of goods, together with what was of course a greater volume of traffic, that of building material. Our facilities were not adequate to that burden.

Q. Your cars were used to a large extent as storehouses, in many instances, were they not? It was hard to get the freight out of them?

7373 A. Yes. I think at one time we had as many as 8,000 cars under load in California or San Francisco Bay points.

Q. How far in the direction of Ogden from San Francisco does your jurisdiction extend?

A. To Sparks, Nevada.

Q. Have you some memoranda as to improvements since 1900 so far as the line between Oakland pier and Sparks is concerned?

A. As to the principal items, yes, sir.

Q. Take the item of new rails. What has been done in that respect?

A. 260 miles of new rails have been laid at a cost of $1,241,000.

Q. What weight of rail?

A. 75, 80 and 90 pound.

Q. With respect to new bridges, culverts and trestles.

Mr. SEVERANCE. Pardon me just a minute. Does this testimony apply to what we might term the Central Pacific line?

Mr. DUNNE. Well, it is up to Sparks.

Mr. SEVERANCE. Yes, but it does not cover anything on the Sunset itself.

Mr. DUNNE. No.

Mr. SEVERANCE. He said he had jurisdiction over both. This is between Oakland and Sparks?

WITNESS. Yes.

Q. What is the number of new bridges, culverts and trestles that have been put in since 1900?

A. 396.

Q. At what cost?

A. $864,000.

Q. Have you increased the number of miles of telegraph wire?

A. Yes, by 425 miles, at a cost of $21,000.

Q. With respect to new ballast what is the mileage?

A. 290 miles. That of course includes considerable double
7374 track territory, the distance from Oakland pier to Sparks being only 246 miles, at a cost of $612,000.

Q. How many miles of new sidings and extension of old between these termini?

A. 46.7 miles.

Q. What was the cost? Have you the figures there?

A. Yes. $450,700.

Q. Between the same points have you the figures for the installation of automatic signals?

A. Yes.

Q. Will you give those, please?

A. Main track 187 miles, second track 55 miles, total 242 miles; cost $223,000.

Mr. Severance asked if these figures included anything upon the Sunset line. Have you some items in respect to the line San Francisco to Rio Grande?

A. Yes, the same information.

Q. By the way, the Sunset freight moves largely over the coast line, does it not?

A. The Sunset train is scheduled over the coast line.

Q. Do the items that you have prepared in respect to improvements on the Sunset line between San Francisco and Rio Grande refer to or include the coast line?

A. They do.

Mr. SEVERANCE. I think you might have the record show what the coast line is.

WITNESS. It is the line down the coast from San Francisco to Los Angeles.

Q. Through Santa Barbara?

A. Through Santa Barbara. Shall I read the items?

Q. Yes.

A. New rail, 75, 80 and 90 pounds, 728 miles, cost $520,000; automatic block signals, main track, 822 miles, second track 60
7375 miles, total 882 miles, cost $911,000; new bridges, culverts and trestles, 1567 in number, cost $1,552,000; miles of new telegraph wire, 1627; cost $73,000; miles of ballast 1229, cost $1,296,900; new sidings and extensions of old, 205 miles, cost $1,515,900.

Q. Where are the snowsheds on the Southern Pacific line?

A. On the line between Oakland pier and Sparks, between Sacramento and Sparks.

Q. They make that portion of the line specially expensive, do they not?

A. Yes.

Q. You spoke of your jurisdiction extending to Rio Grande. The line from El Paso to New Orleans is under the general management of Mr. Fay, is it not?

A. It is.

Q. What is the distinction in the use of the terms Rio Grande and El Paso with reference to the termini of what might be called the Calvin line and the Fay line?

A. The Rio Grande River, the line between Texas and New Mexico, our trains running into El Paso over the G. H. & S. A. line, which is under Mr. Fay's direction, a distance of 4 miles.

Q. So that in a general way the one line has been spoken of as the line to El Paso, and the other as the line from El Paso to New Orleans?

A. Yes.

Q. Have you some figures in reference to line changes on the Sunset line between San Francisco and El Paso?

A. Yes.

Q. On your part of that line. Will you let us have those items?

A. Shall I read the items?

Q. If you will, yes.

A. Changes of line made since 1901, Montalvo to Burbank,
7376 California, 59 miles, cost $2,425,900; Strauss to Rio Grande, 13 miles, $626,000; change of line through the city of Santa Barbara, $500,000; the Bay Shore cut-off, from San Francisco southerly, 9 miles, $9,273,000.

Q. I notice that you have been giving the round numbers.

A. Yes, I have given it in thousands.

Q. Have you any items in respect to reconstruction since 1901 for the elimination of curvature and the reduction of grades? I am still referring to that portion of the Sunset line covered by your jurisdiction.

A. Yes. The cost, however, is estimated, on account of the loss of our records in the San Francisco disaster. Between Soledad and Santa Margarita, 36 miles; Elwood and Ventura, 25 miles; Los Angeles and Dolgeville, 7 miles; Yuma and Araz, 5 miles; Vail and Mescal, 19 miles; Sybil and Manzoro 15 miles; Glade and Caholla, 9 miles,—a total of 116 miles.

Q. What is the estimated cost?

A. Estimated at $15,000 per mile would be a total of $1,740,000. This estimate was made by our chief engineer, who did the work.

Q. The Sunset line goes through some desert country. Have you made any provision and expenditures for wells and water-treating plants?

A. We have made very large expenditures, of which I haven't the figures.

Q. Where does the line to Oregon as a strictly Oregon line find its initial point going north?

A. The shortest route intersects with the Central Pacific line, what is known as the Central Pacific line, at Davis, about 75 miles east of San Francisco.

Q. And your jurisdiction, as I understood you, extends to Ashland?

A. Yes.

7377 Q. Taking that line between Davis and Ashland, what is the distance?

A. 329 miles.

Q. Since 1901 what improvements have been made upon that line in respect to new rail?

A. New 75 and 80 pound rail, 203 miles, cost $959,000.

Q. You are giving this in thousands?

A. In thousands.

Q. How is it with respect to new bridges, trestles and culverts?

A. 361 in number, cost $711,000.

Q. Automatic block signals?

A. 151 miles, cost $181,000.

Q. New sidings and extensions of old?

A. 23.4 miles, cost $415,000.

Q. New telegraph wires and ballasting matters?

A. 244 miles of new telegraph wires, cost $7,000; 218 miles of ballast, cost $450,000.

Q. Have you under construction any new line from California to Oregon?

A. We have a line under construction by way of Klamath Falls.

Q. What is the starting point in California and the terminating point in Oregon?

A. The present starting point in California is Weed, but the completed line will have its junction at Black Butte, some 15 miles southerly from Weed, the present junction.

Q. In Oregon, what will be the terminating point?

A. Natron.

Q. What will be the effect of that line in the way of reducing grades and curvatures, between Davis and Portland?

A. The present line has a maximum grade of 3.3 per cent in both directions; the new line will have a maximum grade northbound of 2.3 per cent and southbound of 1.5 per cent. The distance will be shortened about 15 miles.

7378 Q. And what will be the cost of that line?

A. We estimate the cost will be $18,900,000.

Cross-examination by Mr. SEVERANCE.

Q. This Klamath Falls line was started when?

A. It was authorized in the summer of 1905; I think it was not begun until some time in 1906; I would not be positive.

Q. You expect, when that line is completed through from Weed or Black Butte to Natron, to move your freight that way, don't you?

A. Yes, all through freight, except such as may originate on the old line.

Q. Except such as may originate or terminate on the line between Weed and Natron—the present line. The northern junction point would be Springfield on the main line; Natron is the terminus of what is known as the east side line, and there is a short connection at Natron over to Springfield.

Q. So that will be your freight line?

A. Yes.

Q. And what is your maximum grade that way—2.3 northbound and 1.5 southbound?

A. That is correct.

Q. As against the present grade over the Siskiyou of 3.3?

A. Yes, in both directions.

Q. That will be a much more economical line to operate freight trains over, will it not?

A. It will.

Q. You were asked about the extension of that Shaniko line, and stated in answer to Mr. Dunne that you recommended against extending the Shaniko line; that you did not think that was the best way to develop central Oregon. As I understood you, you recommended a line to come in from the east?

A. I did.

7379 Q. It has never been built, has it?

A. No, but survey has been made.

Q. Yes, I know; but the line has never been built in spite of your recommendation?

A. No; this line that we are building from Klamath Falls has not reached the proposed junction point of the east and west line.

Q. It is a good ways from Klamath Falls across to the east side of Oregon, isn't it?

A. Oh, yes.

Q. It must be 300 or 350 miles?

A. I should think fully that much.

Q. And that country in there is left without railroad facilities, and is still without railroad facilities?

A. Yes.

Q. And the people living in the vicinity of Burns have to drive their cattle 150 miles to the station, to Ontario, don't they?

A. Yes.

Q. And the line that you recommended being built to give egress to cattle, wool, etc., to the east, was through the Malheur Canyon?

A. Malheur Canyon, yes.

Q. That is the line you recommended?
A. Yes.
Q. And that line has not been built, except a few miles?
A. It has been built 15 or 20 miles, I think, westwardly.
Q. When was that built?
A. I could not say. That is not under my jurisdiction.
Q. It was a good while ago, wasn't it?
A. I think it was put in operation some three or four years ago.
Q. And it stopped right there—15 or 20 miles?
A. I understand so; yes.
Q. The only line that is being built at present reaching up into central Oregon is this Des Chutes River line, isn't it?
A. As far as I know, yes.

7380 THORNWELL FAY,

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination by Mr. DUNNE.

Q. Mr. Fay, you are the vice-president and general manager of these lines up to El Paso and down to New Orleans that we have been speaking of?
A. I am.
Q. How long have you held that position?
A. Since April 1, 1904.
Q. Prior to that time, how many years had you been in the railroad service?
A. I began service with the eastern part of these lines, what is known now in Louisiana as the Morgan Railroad, on the 1st of January, 1878.
Q. And have you been continuously in the railroad service ever since?
A. I have been continuously in the employ of these companies.
Q. Can you state some of the capacities in which you have acted?
A. I began service with the company, the Morgan Railroad, the 1st of January, 1878, as a telegraph operator. I was afterwards station agent, then train despatcher, private secretary to the general manager, chief clerk to the general manager, manager's assistant, general superintendent of the lines in Louisiana from the 1st of January, 1902, until the 1st of April, 1904, when I began occupying the position that I hold at present.

7381 Q. The main line has been referred to here as the line between El Paso and New Orleans. That is a sufficiently accurate description for general purposes, isn't it?
A. Yes, sir.
Q. You heard Mr. Calvin's testimony about Rio Grande?
A. Yes.
Q. Prior to 1895 what was the character of the rails in that main line, with respect to weight?

A. Before 1895 there were no rails heavier than 61½ lbs.; the most of the rail was 50-lb. rail.

Q. What was the character of the ballast?

A. With the exception of a few rock cuts that had rock ballast, where the stone had been broken in the construction of the road through the cuts, there was nothing except ballast from alongside the road—dirt, sand.

Q. When were the first 75-lb. rails laid?

A. About 1895—the latter part of 1895.

Q. You say up to that time the rail had been 50-lb. weight?

A. 50 lbs. and 61½ lbs.

Q. Take the year 1901. After 1901 what was the character of the rail and what improvements were made, generally speaking, with respect to bridges and ballasting? I will ask you for the detail presently, but can you tell us in a general way what has been done since 1901 in the way of improving the physical features of the road?

A. The policy has been, constantly, to lay heavier rail. We began the heaviest rail, as I say, in 1895, with 75 lbs.; our standard now is 90 lbs. All the rail we are laying now is 90-lb. rail.

Q. When did you begin to lay 90-lb. rail?

7382 A. We came from 75 up to 76, and then from 76 to 80-lb. rail, and then from 80 to 90. We began laying 90-lb. rail within the past three years.

Q. And what have you done with respect to the character of your bridges and with respect to your ballasting since 1901, as compared with the conditions previous thereto?

A. A large portion of the line had been ballasted with gravel and some of it with slag.

Q. What do you mean by "slag?"

A. Slag from a smelter at El Paso. It is the refuse from the furnace.

Q. How does that serve you as ballast?

A. I think it is the best ballast we have. The only trouble is we can not get enough of it.

Q. With respect to bridges: What has been the general work since 1901 in respect to bridges?

A. Our bridges have been reconstructed, almost entirely, from El Paso through to New Orleans, with the heaviest character of bridge construction in effect to-day.

Q. What sort of material have you used?

A. Steel. In the bridges proper we have used steel, and in renewing ordinary trestles we have used creosoted wood—treated wood.

Q. The steamers from New York originally went to New Orleans, did they not?

A. Yes; but more properly to Algiers, on the west bank of the river.

Q. That is just across the river?

A. Yes.

7383 Q. When was the freight service installed at Galveston?

A. The first steamer from New York to Galveston came in August, 1902, I think. I have the exact date here.

Q. I will take that detail up with you in just a second. Prior to 1902, how many steamers did you have between New York and New Orleans?

A. There were generally about three steamers a week each way, depending on the season of the year and the volume of business. Some months in the year, when business was dull, principally in the summer time, there would be only two steamers a week each way.

Q. How many steamers between New York and Galveston since 1902?

A. Generally there have been three steamers a week each way.

Q. Concurrently with those steamers, have steamers been plying, in your line, between New York and New Orleans, as well?

A. Yes.

Q. How many?

A. Two per week. Since that time, the steamers carrying freight for New Orleans land on the New Orleans side instead of the Algiers side.

Q. In a general way, how did the terminal at New Orleans compare with the new terminal at Galveston—which you began to use in 1902? When I speak of New Orleans, of course, I mean Algiers.

A. I have a map here showing the comparative difference between the two terminals. In a general way, at New Orleans there is a rise and fall in the river, from extreme low water to extreme high water, of approximately 20 feet. The wharves at New Orleans are built up and down the stream; and during extreme low water there is quite an elevation to lift freight up to get it into the cars. At Gal-
7384 veston the property purchased was a large block of property fronting on the bay, and it was practicable to build up-to-date facilities for handling the steamship business from ships to cars and from cars to ships. The rise and fall of the tide at Galveston is about two or three feet.

Q. Can you state, or have you the figures before you, what the cost of those improvements at Galveston had been, up to, say, the end of the fiscal year 1909?

A. Up to June 30, 1909, the total expenditures had been $2,118,935.

Q. How many ships will the Galveston terminal accommodate at one time, and how many the Algiers?

A. 14 ships can be accommodated at one time at Galveston; and the capacity at Algiers was 4.

Q. Take the yards for holding cars for loading and forwarding, as between Galveston and Algiers, what will the tracks leading to the docks hold in the shape of cars in the one place as against the other? Have you some data with respect to the respective car capacities of those terminals?

A. Yes. The trackage at the Algiers docks, immediately at the docks, had capacity for 71 cars; and the trackage at the Galveston docks has capacity for 547 cars.

Q. Do you refer to the tracks leading immediately to the docks, holding 547 cars?

A. Yes.

Q. Have you any figures for the total car capacity of the yard?

A. The steamship yards in Algiers had a total capacity of 281 cars, and at Galveston 1225.

Q. What was the time of moving freight from New York to El Paso, say for 1909?

A. I had some figures worked up for the month of Decem-
7385 ber, 1909; and the average time from New York to El Paso was 8 days, 22 hours and 15 minutes.

Q. What was it in 1902?

A. 9 days 8 hours and 14 minutes.

Q. In 1900 what was it?

A. In 1900 it did not move via Galveston; it moved via Algiers.

Q. That is what I wanted to ascertain.

A. The time via Algiers was 9 days 6 hours and 32 minutes.

Mr. Severance. To El Paso?

Witness. Yes, sir.

Q. Your local business moving west of New Orleans has increased considerably since 1900, has it not?

A. Yes, in the territory between Houston and New Orleans it has increased very much.

Q. How far is Houston from New Orleans?

A. 362 miles.

Q. Where is Lafayette on the line?

A. Lafayette is the first through freight terminal out of Algiers; it is 144 and a fraction miles from New Orleans.

Q. Are you constructing any line from Lafayette to Baton Rouge at this time?

A. Yes, we are building what we call a cut-off, across there; it is a little less than 53 miles from Lafayette to the west bank of the Mississippi River opposite Baton Rouge. We have been constructing that for several years. It is not quite complete. The construction is very difficult; a great deal of it is through an extremely difficult swamp to build a road through. When completed, that line will make a saving in time, on through freight, in connection, for instance, with the Illinois Central at Baton Rouge, of from 24 to 48 hours in through time.

Q. Have you a memorandum of the comparison of freight movement in 1902 with any succeeding year?

A. Between what points?

7386 Q. Say Galveston and El Paso. Can you give us those data? Let us know the years of comparison; and then give us the data.

Mr. Severance. From New York?

Mr. Dunne. On the New York business, yes.

Q. Just let us have the data as you have it—with any explanation you care to make.

A. In the summer of 1902 the schedule time for moving freight from Galveston to El Paso was 49 hours and 50 minutes.

Q. How many miles was that per hour? Have you that worked out?

A. That was 17.8 miles per hour. Do you want it for 1907? That is the next year I have.

Q. Yes.

A. The time was 60 hours and 40 minutes.

Mr. SEVERANCE. The schedule time?

WITNESS. Yes. And the speed was 14.5 miles an hour.

Q. Have you the running time?

Mr. SEVERANCE. He gave it; 14.5 miles an hour.

Mr. DUNNE. I think that is the card-time. Isn't it?

WITNESS. That is the card-time. The running time, excluding stops, was 17½ miles an hour.

Q. What was the running time in 1902?

A. 17.6 miles per hour.

Mr. SEVERANCE. I am mixed on the figures, then. He said that in 1902 the schedule time, Galveston to El Paso, was 49 hours and 50 minutes, as I understood it.

WITNESS. Yes.

Mr. SEVERANCE. Or 17.8 miles an hour. Does that mean the schedule time?

WITNESS. The schedule time.

Mr. SEVERANCE. You said the running time was 17.6?

WITNESS. 17.6.

7387 Mr. SEVERANCE. That could not be. If 17.8 is the schedule——

Mr. DUNNE. This is the actual running time, excluding stops, he testified.

Mr. SEVERANCE. I think there must be a mistake there. I know you want to get it right on the paper here. If the schedule time is 17.8, that means including stops, of course. Now, the time including stops cannot be faster than the time excluding stops. He is giving it as faster. He must have his figures mixed, because he gives 17.6 as the time excluding stops, and 17.8 as the time including stops.

Q. Just let us have those figures again.

A. The running time that I gave was for the trains in both directions; that was the average.

Q. East and west?

A. Yes.

Mr. SEVERANCE. Excuse me for interrupting. I thought he made a mistake. I can ask him about it on cross-examination.

Q. Have you made a comparison between 1901 and 1909, when the freight was handled via Algiers, upon the one hand, and via Galveston upon the other?

A. Yes. In 1901 the time from Algiers to El Paso was 68 hours and 22 minutes.

Q. What time are you speaking of—the time-card?

A. Time-card time; schedule time on the time-card. In 1909 it was 72 hours and 19 minutes from Galveston to El Paso.

Q. That is Galveston to El Paso. How about the other direction?

A. In 1901, from El Paso to Algiers, the time was 78 hours and 30 minutes.

Q. You haven't the actual running time for that year, have you?

A. No.

Q. Now take 1909. What are your figures from El Paso to Galveston?

7388 A. In 1909 the time from El Paso to Galveston was 74 hours and 30 minutes.

Q. Card-time, or running time?

A. Schedule card-time.

Q. Have you the running time east and west, between Galveston and El Paso for that year?

A. It was 17.3 miles per hour.

Q. Have you some figures for the time from New York to El Paso for the years 1900, 1902 and 1909?

A. I have given those already.

Q. You might repeat them here, and it will come in connection with the other data that you have been giving.

A. In the month of December, 1900, freight moved via Algiers, from New York to El Paso in 9 days 6 hours and 32 minutes. In the same month in 1902 it moved via Galveston in 9 days 8 hours and 14 minutes. In the same month in 1909 it moved via Galveston, in 8 days 22 hours and 15 minutes.

Q. You spoke of a map showing the Algiers ship terminals and a map showing the Galveston terminals. Will you produce that map?

A. This map was offered in evidence by Mr. Kruttschnitt, I think.

Q. Which one?

A. Both of them.

Mr. SEVERANCE. I think both of them are in evidence.

Q. Was the Algiers map offered in evidence on his testimony?

A. I think he offered them both.

Q. Well, I can look that up later; I will not delay the examination now in order to look that up. With the maps before you, can you give us, with respect to Algiers and Galveston, the frontage in feet, and the berth capacity, the trackage, and the trackage assigned ship freight? I don't know but you have those figures carried out into your memorandum; you need not take time to look at the map.

7389 A. I have given that already. But, giving it again from the map: the total dock frontage at Algiers was 1755 feet; berth capacity, 4 steamships. The total dock frontage at Galveston is 6,235 feet, and the berth capacity is 14 steamships.

Q. The trackage at docks and the trackage assigned ship freight. I think you gave.

A. Yes.

Q. So we won't repeat that. Have you a memorandum here of expenditures for additions and betterments upon your line, from 1902 to 1909. You and Mr. Calvin divided El Paso. We are now speaking of your line, of course.

A. My jurisdiction goes to the Rio Grande, 3½ miles west of El Paso.

Q. Your jurisdiction is over the railroad to New Orleans?

A. That is all.

Q. As to these additions and betterments, speaking, of course, of the railroad property, between 1902 and 1909, would you let us have those, please?

A. The total expenditures, 1902 to 1909, inclusive, for track, roadway and other like improvements, were $7,938,151.30. During that time there was new equipment bought and charged to capital account, amounting to $4,744,910.87. This makes a total for those two items of $12,683,061.17. In addition to that there was charged against operating expenses, for renewing light rail with heavy rail, the additional weight of the rail, which, under the new Interstate Commerce Commission classification is charged to capital account, $2,504,630.07. And in addition there was equipment purchased and charged to renewal fund, that is, operating expenses, amounting to $3,780,041.03.

Q. What is the total?

A. That makes a grand total of $18,967,732.27.

7390 Q. Take the years 1894 to 1901, inclusive: How much was spent for betterments and improvements, including new equipment purchased and charged to capital accounts?

A. A total of $8,766,125.

Q. And for the years 1902 to 1909 your figures are what?

A. $12,683,061.

Q. Have you a memorandum in respect to the physical characteristics of the main line, New Orleans to El Paso? If you have, give us the years that it covers and give us the items.

A. I had a memorandum prepared of the physical characteristics of the main line, New Orleans to El Paso, between the year June 30, 1901, and the same period in 1909. The miles of single track are, 1193.61 in 1909, and 1195.96 miles in 1901.

Q. That was the single track mileage?

A. Yes. That is up to El Paso.

Mr. SEVERANCE. Do I understand that you have lost 2½ miles?

WITNESS. That is a decrease of 2.36 miles.

Q. This is the whole length, isn't it?

A. Yes.

Q. All right. Go ahead.

A. Miles of additional main track, that is, second track, double-track, 48.09 in 1909, and 39.76 in 1901; an increase of 8.33 miles in double-track. The next item is the weights of rail for different years. In 1909 we had eighty-seven hundredths of a mile of sixty pound rail; that was in a yard, but it was classed with the main track; and none in 1901; an increase of eighty-seven hundredths of a mile. In 1909 we had eighty-six hundredths of a mile of sixty-one and a half pound rail, also in a yard, as against 577.72 miles in 1901; a

7391 decrease of 576.86 miles. In 1909 we had 366.64 miles of 75 pound rail; in 1901 we had 448.98 miles; a decrease of 82.34 miles of 75 pound rail. In 1909 we had 7.69 miles of 76 pound rail in the main line; in 1901 we had 111.97 miles of 76 pound rail; a decrease of 104.28 miles. In 1909 we had 680.64 miles of 80 pound rail; in 1901 we had 97.05 miles of 80 pound rail; an increase of 583.59

miles. In 1909 we had 184.99 miles of 90 pound rail, and in 1901 we had no 90 pound rail; an increase of 184.99 miles. Since June 30, 1909, we have bought 135 miles of 90 pound rail, most of which has been delivered, and the balance will be delivered in March and April.

Q. Was that for main track mileage?

A. Yes, sir. In 1909 we had approximate percentage of timber trestling, creosoted——

Q. I don't think you gave the miles of track ballasted, did you?

A. No. Miles of track ballasted, in 1909, 881.88; in 1901, 771.43; an increase of 110.45. Second track ballasted: In 1909, 41.13; in 1901, 33.97; an increase of 7.16. In 1909, approximate percentage of timber trestling, creosoted, 81.40 per cent; in 1901, 61.58 per cent; an increase of 19.82. In 1909 the approximate percentage of track ties treated, burnettized, was 41.13; in 1901, 31.66; an increase of 9.47. In 909, track fully tie-plated, 1,171.57 miles; in 1901, 951.73; an increase of 219.84.

Q. By the way, have you a statement as to the amount expended per mile for maintenance of way and structures in 1909 and 1901?

A. For the year ending June 30, 1909, we spent $1,453 per mile for maintenance of way; and in 1901 we spent $1,232.14.

Q. Have you a statement with respect to the time of through California passenger trains Nos. 9 and 10, in 1901, as com-
7392 pared with 1909?

A. In 1901, through California train No. 9, the time from New Orleans to El Paso was 46 hours and 10 minutes, and in 1909 it was 44 hours and 35 minutes; both westbound. The time of the eastbound train in 1901 was 46 hours and 25 minutes from El Paso to New Orleans; and in 1909 it was 46 hours and 45 minutes from El Paso to New Orleans.

Q. Have you the time between New Orleans and San Francisco?

A. The time from New Orleans to San Francisco in 1901, was 95 hours and 35 minutes, westbound; in 1909 it was 97 hours and 45 minutes. My understanding is, however, that that train lays over for several hours at Los Angeles, and that it is practicable to make a connection at Los Angeles with a train that leaves for San Francisco sooner; so it is possible to cut out several hours by taking another train at Los Angeles.

Q. How is it eastbound?

A. Eastbound the time is about the same in both years; in 1901 it was 96 hours and 25 minutes, and in 1909, 96 hours and 45 minutes.

Q. Can you give us a statement as to the number of passengers carried by the Sunset-Central lines—I believe that is what those lines are called that you had jurisdiction over?

A. Yes, sir.

Q. Can you give us any figures as to the number of passengers carried by the Sunset-Central lines between 1904 and 1909, and what the conditions of operation had been with respect to the safety of those passengers?

A. I had occasion, sometime ago, to have a statement made up during the time that I have been in charge of those lines——

Q. In what year did that begin?

A. My present position began on the 1st of April, but this
7393 statement commenced on the 1st of January, 1904, and runs to the 31st of December, 1909.

Mr. SEVERANCE. That would be six years, then?

WITNESS. Yes. These lines during that time carried a total of 26,350,990 passengers, which were carried 1,658,794,090 passenger miles. During that time there was only one passenger killed in a train accident.

Q. How many cases of injury did you have?

A. 262.

Q. Was the train known as the Sunset Limited operated during the time that you were general manager?

A. No, the Sunset Limited has not been operated since I have been general manager of the properties; but I was rather familiar with the train, when I lived in New Orleans; in fact, whenever I was in town I generally went down to see the train off every day.

Q. You were stationed at New Orleans at the time this train was being operated.

A. Yes, the first time it was put on. I have a memorandum here giving the periods when that train was operated.

Q. What sort of a train was that Sunset Limited, in respect to the time of its operations? Was it an all-year train or a season train?

A. It was what we term a periodical train, operated only a portion of the year, during the season when we hoped to get travel routed through the southern gateway.

Q. That would be the winter time, wouldn't it?

A. Yes. Before this train was put on, however, we had experimented for one year I am sure, and possibly two years, with a similar train, to the City of Mexico, called the Montezuma Special, which ran once a week during the winter season. Our experience with that train was very unsatisfactory, and that was not continued.

7394 Q. Was that before the Sunset Limited was operated?

A. Yes, before the Sunset Limited was put on. The Sunset Limited was first inaugurated as a periodical train in 1894. It was operated weekly, beginning on November 1, 1894, until April 11, 1895.

Q. Then it ran during that winter season, from November to April?

A. Yes.

Q. And run only once a week, as I understand you?

A. Once a week.

Q. State what you mean by the term "weekly".

A. One train went west and one came east each week.

Q. Now, 1895.

A. In 1895 the train was operated in each direction semi-weekly, commencing on October 31, 1895; it was operated until March 16, 1896, semi-weekly; and then until April 16, as a weekly train.

Q. How was it in 1896?

A. I will read that right down, with your permission.

Q. If you please, yes.

A. In 1896 it was operated semi-weekly, commencing on November 9, 1896, and taken off semi-weekly on March 22, 1897, and operated weekly until April 1, 1897. In the season beginning in 1897 the train was not operated from New Orleans, because of yellow fever in the South.

Q. Now take 1898.

A. In 1898 it was operated semi-weekly from December 1, 1898, to March 27, 1899, and weekly until April 22, 1899. In 1899 it was operated semi-weekly from December 17, 1899, to April 19, 1900. In 1900 it was operated tri-weekly from November 8, 1900, until April 1, 1901; then weekly to April 25, 1901.

Q. Then, November 8, 1900, was the earliest date at which
7395 the Sunset Limited was ever operated tri-weekly; is that correct?

A. Yes, that is correct.

Q. Subsequently to the spring of 1901 was the operation of that train resumed?

A. In 1901 the train was operated again tri-weekly, commencing on December 2, 1901, when it was operated until March 31, 1902, tri-weekly; and then weekly until April 14, 1902.

Q. When was that service discontinued—the so-called Sunset Limited service or periodical service?

A. The periodical service was not operated any more after April 14, 1902. The following season, however, we very much improved the status of the through train, and we also put on an additional through train to El Paso, which made connection there with the Pacific system.

Q. Will you explain that a little more in detail?

A. The trains that we call Nos. 9 and 10, the trains that are now operating between New Orleans and San Francisco, were equipped with dining cars and an observation car, as well as the regular sleepers. They had coaches and head-end cars, mail and baggage, also. Since that time, or within the past year, a further improvement has been made in that train, by running electric-lighted cars, equipped also with electric fans, having compartment car also equipped with electric lights and electric fans. I should have said "observation car" instead of "compartment car."

Mr. SEVERANCE. You have no compartment car?

WITNESS. No compartment car. But the ordinary sleepers are now equipped with electric lights and electric fans on those two trains. In addition to that train, we run another train with
7396 standard Pullman sleepers, through; Nos. 7 and 8.

Q. What is that?

A. I say in the season of 1902, following the discontinuance of this tri-weekly train, we operated double daily service.

Q. Just explain that, please.

A. That double daily service was continued from November 15, 1902, to July 26, 1903; then it was discontinued, and was resumed again on December 16, 1906, and operated until September 1, 1907, when it was again discontinued; and today we have only a single service through between New Orleans and San Francisco daily.

Q. Then you operated single service from 1903 to 1906?

A. Yes.

Q. Prior to that you had the double daily service?

A. Yes, between that date and the date when this periodical train was taken off.

Q. And then from 1906 to the fall of 1907 you had double service?

A. Yes.

Q. And since that time you have had single daily service?

A. Yes.

Q. Have you found the service since 1907 adequate to the handling of the passenger business?

A. Yes. In the winter months, however, we have to put on an additional sleeper on that train, at San Antonio. A good deal of travel going to the Pacific coast stops over in San Antonio, Texas, and frequently there is not space in the two sleepers leaving New Orleans to take care of that additional travel, and we have been putting on a third sleeper at San Antonio, which runs as far as Los Angeles, to take care of that.

7397 Q. By the way, what was the consist of the passenger train that gave service between San Francisco and New Orleans after you took off the Sunset Limited? How was that train made up?

A. Generally with two head-end cars, a day coach or two day coaches, a tourist car, a dining car, two standard sleepers, and an observation car.

Q. That train, then, included both a dining car and an observation car?

A. Yes.

Q. In addition to the improvement in service that you have spoken of, was there any additional service given by way of El Paso in connection with any other line?

Mr. SEVERANCE. What do you mean by improvements in service?

Mr. DUNNE. I am speaking of the electric lights, dining cars, observation cars, and all that sort of thing.

A. The Rock Island put on a train called the Golden State Limited. I think they put that on in the fall of 1902; possibly it was not until 1903 that they did it. It ran through from Chicago to Los Angeles, and possibly to San Francisco.

Q. That train entered California through the El Paso gateway?

A. Yes.

Q. And went out through that gateway?

A. Yes, sir.

Q. What kind of a train was that?

A. I have very little actual knowledge about it, except having seen it in passing through the yard at El Paso. It looked to me to

be a train very similar to the train we had formerly operated, called the Sunset Limited.

Q. That train operates into and out of California over the Southern Pacific lines?

A. Yes.

Q. When did you say it was put on, or are you able to give the date?

7398 A. My impression is that it was in the fall of 1902. Possibly it may not have been until 1903. I am not positive about the date.

Cross-examination, by Mr. SEVERANCE:

Q. This Golden State Limited runs from Chicago to San Francisco, doesn't it?

A. I know that it runs as far as Los Angeles, and I think it runs to San Francisco.

Q. The Overland Limited, of the Union Pacific, runs from Chicago to San Francisco, doesn't it?

A. Yes.

Q. Those two trains are in competition with each other for business from Chicago to San Francisco, aren't they?

Mr. DUNNE. That is calling for the conclusion of the witness.

Mr. SEVERANCE. He is a railroad expert. He ought to know. He has been in all kinds of railroad business.

Mr. DUNNE. Both trains run over the Southern Pacific Railroad, and I do not think this witness ought to be called upon to decide that question. Let the court decide that question.

Mr. SEVERANCE. I am not asking him as to over what railroads they run, at all. I am asking about the trains; whether the trains are in competition with each other, (the Golden State Limited, on the one hand, and the Overland Limited on the other) for business between Chicago and San Francisco. That is a simple question to put to a railroad man.

Mr. DUNNE. These are both Southern Pacific trains. How can the Southern be competing with itself?

Mr. SEVERANCE. Well, it is unnecessary to argue the case now, or to make any more suggestions to the witness. I have merely asked about the competition between the trains. I think you

7399 have suggested sufficient to him so he will know what you desire him not to say, at least.

Mr. DUNNE. I don't think the witness ought to be called upon to answer a question that may be a question of law.

Mr. SEVERANCE. Then, do you instruct the witness not to answer the question?

Mr. DUNNE. Oh, no. I only suggest that to you.

Mr. SEVERANCE. Well, I will take my chances.

A. I should say that a passenger in Chicago, who wanted to go to San Francisco, would have a choice of either train; and in that sense I should think that they would be competing.

Q. Each train is advertised, and its advantages are dilated on in advertisements; isn't that true?

A. That is my understanding about it, and I have seen the advertisements; but, you understand neither of the trains runs over any portion of the road I have anything to do with.

Q. I understand. But you are a railroad man and familiar with railroading. The trains are somewhat similar in their consist, aren't they—the Overland Limited and the Golden State?

A. I have not seen the Overland Limited. I don't know what the consist of that train is.

Q. Were you present when it was described here as an electric-lighted train with observation car, dining car and sleeping cars?

A. I know in a general way what kind of a train it is, from the advertisements I have read. And I know the manner of electric lighting; they have a head-end dynamo car.

Q. You have seen the Golden State, you said?

A. Yes; passing through the yard.

Q. Is it a similar train?

7400 A. I don't think the Golden State has as many cars as I understand the Overland Limited has.

Q. It has electric lights, hasn't it?

A. I think so.

Q. And an observation car?

A. Yes.

Q. And a dining car?

A. Yes.

Q. What was the consist of the Sunset Limited when it was in operation?

A. When it was first put on, it had what we call a composite car; that was a men's smoking compartment, barber-shop and cafe; and a dining car and two standard sleepers. Later on a third sleeper was put on, which was partly observation; that is, the rear part of it was for observation.

Q. Like the rear sleeper on the 18-hour trains between here and Chicago?

A. Twentieth Century Limited, yes.

Q. A compartment car with an observation room at the end?

A. Yes. And there was another substitution made, later on; there was a compartment car that had seven staterooms and a parlor for ladies.

Q. It was a very handsome train, wasn't it?

A. Yes.

Q. And electric lighted?

A. No; it was lighted with Pintsch gas.

Q. Wasn't it, towards the end, electric lighted?

A. No.

Q. It never was?

A. No.

Q. There was a dining car on the train, you stated, didn't you?

A. Yes; always a dining car.

4421

Q. And a smoking car?

A. This composite car was partly a smoking car.

Q. Partly baggage?

A. Partly baggage and partly smoking car.

Q. That was similar to the smoking cars that are run on the fast trains in the east, wasn't it?

A. Yes.

7401 Q. So you had an observation car in the rear, a composite smoking car in front, a dining car, compartments and the ladies room that you speak of, and Pullmans?

A. Yes.

Q. Any day coaches?

A. No day coaches at all.

Q. A solid Pullman train?

A. A solid Pullman train.

Q. There was a tourist car, wasn't there?

A. No, we never operated a tourist car on the Sunset Limited.

Q. Now, you spoke of the other trains from New Orleans to San Francisco; trains Nos. 9 and 10. Were those trains in operation at the same time that the Sunset was on?

A. Yes.

Q. Did they carry tourist cars?

A. They did; that is, they did not carry a tourist car daily, they carried a tourist car periodically; I think it was either twice or three times a week.

Q. From what point did that car come?

A. At one time they handled a tourist car from Chicago; at another time they handled one from Cincinnati, and also from Washington.

Q. The car from Chicago came over what line to New Orleans?

A. The Illinois Central.

Q. How often did that car run?

A. My recollection is that the Chicago car ran only once a week.

Q. And that moved to San Francisco from Chicago, did it?

A. Yes.

Q. Were tourist cars at the same time carried on the Union Pacific route, from Chicago?

A. I don't know.

Q. Now, about the tourist car to Washington—is that car still running?

A. Yes, I think they are operating three or possibly four cars a week now from Washington.

Q. And over what routes does that tourist car run?

A. From Washington?

7402 Q. Yes.

A. It takes the Southern Railway from Washington to Atlanta; the Atlanta & West Point from Atlanta to Montgomery; the Louisville & Nashville from Montgomery to New Orleans; and our road from New Orleans to San Francisco.

Q. Do you run any tourist cars except the Washington car, now?

A. I think not; except we did run, a short time back, a tourist car starting locally from New Orleans. I am not sure whether that is running yet or not.

Q. But from no point beyond New Orleans?

A. No, I think not.

Q. Do you know when the service over the Illinois Central and Southern Pacific—the tourist car service from Chicago, was abandoned?

A. No, I do not. I don't know that it has been abandoned. We have some passenger people here, however, who can tell you more about it than I can.

Q. When the tourist car ran from Cincinnati, how did it move? Over the Louisville & Nashville to New Orleans, or the Queen & Crescent?

A. At one time it moved over the Louisville & Nashville, and at another time it moved over the Queen & Crescent route.

Q. Do you know whether that service has been abandoned—or do they still run tourist cars out of Cincinnati to the coast?

A. I don't think that there are any running from Cincinnati now over our line.

Q. Now, those trains Nos. 9 and 10, you say, within the last year have become electric lighted trains?

A. Not the whole train. What I said was that the sleepers and the observation car were electric lighted.

Q. Oh, they have this axle——

A. Axle light, storage battery.

7403 Q. They run a dining car clear through?

A. The dining car practically goes through. There is a night run on that train, each way, between Houston and San Antonio; and for convenience the diner is cut off at Houston and San Antonio; but there is a diner on the train continuously from San Antonio through to destination going west, and also a diner to operate between Houston and New Orleans. In other words, there is a diner on it during the daylight hours.

Q. So that the passengers get dining car service all the time, both ways?

A. Yes.

Q. And they did when the Sunset Limited was running: they had dining car service clear through to New Orleans?

A. On the Sunset Limited?

Q. Yes, sir.

A. But not on the daily trains.

Q. No, but on the Sunset Limited?

A. Yes; the diner on the Sunset Limited went through from origin to destination, with the train.

Q. Now, take trains 7 and 8, which ran up to July 6, 1903, as I understood you, and then were taken off——

A. No, I said until July 26, 1903, when they were taken off as through trains.

Q. When were trains 7 and 8 put on?

A. Trains 7 and 8 had been running for a great many years, regularly, between New Orleans and San Antonio; and at this time those trains were just extended from San Antonio through to El Paso, where they connected with a similar train on the Pacific system.

Q. Did they run through sleepers?

A. Yes.

Q. From New Orleans through?

A. From New Orleans through to San Francisco.

Q. Up to July 26, 1903. Then, do I understand you, that
7404 train was taken off?

A. Taken off as a through train; did not operate any farther west than San Antonio.

Q. Then it was put on again later, wasn't it?

A. It was put on again on December 16, 1906, and operated until September 1, 1907, when it was taken off, and is not now operated as a through train.

Q. What was the time of the Sunset Limited from San Francisco to New Orleans? That was not given, I think, on the direct examination.

A. I think I have it here. When the Sunset Limited was first put on, the first season it operated it left San Francisco at 10.30 A. M. and arrived at New Orleans at 7.40 P. M. The hours, as shown by that statement, are 81 hours and 10 minutes. But there is a difference in time between San Francisco and New Orleans of two hours; so the actual time of that train was 79 hours and 10 minutes. In the other direction the actual time was 77 hours and 45 minutes. For the first four or five seasons, or three or four seasons, that was practically the schedule that the train was operated on. Later on, however, the time was shortened. In 1900 the time in one direction was 74 hours and 20 minutes, and in the other direction 72 hours.

Q. Did it remain that until the train was taken off?

A. Yes, that schedule was maintained until the train was discontinued.

Q. What is the present time of the passenger train from New Orleans to San Francisco?

A. 97 hours and 45 minutes. But I think it lays over for several hours at Los Angeles, and it is possible to take another train at Los Angeles and get to San Francisco several hours before this train arrives.

Q. How many hours before?

A. 7:30 as against 11:40 I think.

7405 Q. Four hours.

A. About four hours and ten minutes.

Q. That would make it 93 hours and 35 minutes.

A. That was the condition when I went over the line last, in August. Whether there has been any change made on the west end, I don't know.

Q. Then the westbound time made by the Southern Pacific, its best passenger train, from New Orleans to San Francisco, taking into account the fact that the passenger can move from one train to

another at Los Angeles now, whereas he formerly went straight through, was 77 hours and 45 minutes by the Sunset Limited, and is 93 hours and 35 minutes by the present train?

A. That is about correct, as I understand it.

Q. So the net result to the passengers, from all these improvements that you have testified to, is to make the time 16 hours longer between San Francisco and New Orleans west bound; that is right, isn't it?

A. I have not figured out the time.

Q. Now, eastbound, as I understood you, the time of the Sunset Limited was 79 hours. Well, the Sunset was shortened too. I made a mistake. The difference is still greater. The final Sunset westbound time was 74 hours and 20 minutes, wasn't it? after 1900, or in 1900?

A. No, that was the eastbound time.

Q. What was the westbound time?

A. 72 hours.

Q. 72 hours, then, as against 93 hours and 35 minutes by changing at Los Angeles. There would be a difference of 21 hours and 35 minutes—that much slower now than it was in 1900?

A. Comparing the time of the Sunset Limited with the present daily train.

Q. Yes. And eastbound you said the time was 74 hours and 20 minutes in 1900?

A. Yes, sir.

7406 Q. What is the present eastbound time of the train numbered 10?

A. 96 hours and 45 minutes.

Q. 96 hours and 45 minutes as against 74 hours and 20 minutes. That would be 22 hours and 25 minutes slower, wouldn't it?

A. Yes, but it is daily service; and the other was periodical and only a part of the year.

Q. You had a daily service at the same time, hadn't you?

A. Yes, we had a daily service, but the equipment was not as comfortable or convenient as the equipment we have on the daily service now.

Q. You had sleeping cars, hadn't you?

A. We had sleeping cars, but no diners or observation cars.

Q. Did you have dining stations?

A. We had eating stations, yes.

Q. Similar to those now maintained on the Santa Fe?

A. We spent a good deal of money on them and lost a good deal of money. I do not think that they came up to those maintained on the Santa Fe probably. But they were not satisfactory to us and they were not satisfactory to the passengers.

Q. You were examined by Mr. Dunne with reference to the time made by your freight trains. See if I got those figures correct. If you will, turn to the figures as you gave them, in 1901 and 1909, on freight service between Algiers and El Paso on the one hand, and

Galveston and El Paso in the later year. As I have it, the freight service from Algiers to El Paso in 1901 was 68 hours and 20 minutes?

A. 68 hours and 22 minutes.

Q. And from Galveston to El Paso in 1909, 72 hours and 19 minutes?

A. Yes, sir.

Q. What is the distance from Galveston to El Paso?

A. The way those freight trains run, it is 882 miles.

7407 Q. What is the distance from Algiers to El Paso?

A. 1194 miles.

Q. Then, as I understand it, in 1901 you ran your freight trains 1194 miles in 68 hours and 22 minutes; and in 1909 you ran your freight trains 882 miles (or 312 miles less) in 72 hours and 19 minutes, or 4 hours longer lacking 3 minutes?

A. That is correct.

Q. Do you have more than one class of freight trains in that service, or do you run them all on the same schedule?

A. We have a regular schedule train, called 243, that we run in one or more sections, as the business justifies.

Q. But you don't make any distinction between the different classes of freight; you carry it all on one schedule?

A. All the freight for El Paso and beyond is carried on that train. Of course, on the east end of the line we have local trains that run between local termini.

Q. Now, you say that you are still running ships to New Orleans; two a week, I believe you said?

A. Yes.

Q. You carry both freight and passengers on those ships, don't you?

A. Some of the ships carry passengers; but I think occasionally they run a freight business there that does not carry passengers.

Q. You don't carry passengers to Galveston, do you?

A. No.

Q. But you carry freight to both places?

A. Yes.

Q. Does any of the California freight now go to Algiers or New Orleans?

A. No, sir.

Q. That is all carried to Galveston?

A. All carried to Galveston.

Q. And the freight that goes to New Orleans is destined to what places, in general?

7408 A. The bulk of it goes to New Orleans proper; then it is distributed into the states of Mississippi, Arkansas and Louisiana.

Q. Have you abandoned the use of the docks at Algiers? You said the steamers now go to New Orleans proper.

A. Yes, they now land on the east side of the river in New Orleans proper.

Q. So these docks that you have described, that are shown on the map at Algiers, are abandoned, are they?

A. Yes, they are practically abandoned. Occasionally we have a tramp steamer that comes in there and discharges a cargo for some western point at these docks, but we now rent much more convenient docks from the City of New Orleans, on the east side of the river, because of the reason that the bulk of the freight handled in these steamers goes to New Orleans proper, and before it had to be loaded into cars at Algiers and transferred across the river, and it made much slower time than it makes when it is taken right out of the ships and put on the docks ready for delivery at New Orleans proper.

Q. As I understand you, sir, the service to California by Algiers previous to the Galveston service being installed was tri-weekly, was it, or bi-weekly? Tri-weekly, wasn't it?

A. Tri-weekly, as a rule. Sometimes business would be dull in the summer and they would run only two ships a week, but as a general thing there were three.

Q. And it is now three to Galveston?

A. It is now three to Galveston.

Q. So that so far as the number of ships coming from New York carrying California freight, they are the same as they were eight or ten years ago?

A. Well, that should be qualified with this statement: that
7409 whereas the ships formerly running to Algiers carried all of the New Orleans cargo as well as the California and Texas cargo, the ships now running to Galveston carry California, Texas, Utah and Colorado cargo, whilst those running to New Orleans carry the New Orleans cargo—which always amounted to a considerable tonnage.

Q. But what I was getting at was the frequency of the service. The service is of the same frequency now—three ships a week?

A. I don't consider it so. I consider that there are five ships a week running now against three previously.

Q. But I understood you to say that the New Orleans ships now do not take California freight.

A. They do not take California freight; but the California ships formerly took New Orleans freight.

Q. I understand. But Mr. Stubbs testified that in loading the ships the California freight was loaded so that it could be unloaded first.

A. That was true in the old days.

Q. If that was the case, it would not make any difference with the unloading, whether you have a ship devoted entirely to California, Texas and Arizona freight, or whether you have it loaded in the ship so that it will be unloaded first?

A. No, it does not make any difference so far as the handling of the freight is concerned.

Q. Then I am right, am I not,—that the service, so far as the number of ships is concerned, is just the same—three a week, except now

they go to Galveston, and formerly they went to New Orleans; but in addition, as you say, to carrying the California and Arizona freight they also carried New Orleans freight in the old days?

A. In the sense that formerly there were three ships a week
7410 that carried California freight and that now there are three ships a week that carry California, you are correct.

Q. That is what I meant. Now you spoke of Colorado and Utah freight, and California. They also carry freight to Arizona, New Mexico, Texas, and some for Oregon, don't they?

A. Yes.

Q. And eastbound from what places?

A. Eastbound they carry freight from Texas, copper from Arizona and New Mexico, and California goods. There was a time when the ships eastbound carried a good deal of sugar from the Sandwich Islands to New York; but that tonnage, several years ago, was diverted to the Tehuantepec route and we lost it.

Q. That moves almost entirely now by the American-Hawaiian Line, doesn't it?

A. I understand it does.

Q. You gave the average time of a certain movement from New York to El Paso, which indicated that the time had been shortened, as I understood you, by about 8 hours, or 7½ hours. From what sources did you get up those figures? You gave what I understood you to be the average time in 1909, 1900, and 1902. What I want to get at is, how was that prepared?

A. That was made up from the actual movement of the westbound business going beyond El Paso and to El Paso for the month of December, 1900, 1902, and 1909; the actual movement of the freight was——

Q. Of the entire business?

A. Yes.

Mr. DUNNE. This was actual.

WITNESS. Yes.

Mr. SEVERANCE. That is what I understood him to say, but I wanted to be sure I understood him.

Q. That was for those three months—the total movement?

A. The same month in the three years.

7411 Q. That is what I mean. That is, the month of December, 1900, December, 1902, and December, 1909; that is correct, isn't it?

A. Yes, sir.

Q. Then the change in the speed must have been on the boats; the boats must be faster than the old boats—aren't they?

A. The average speed of the boats now is faster than the average speed was in 1902 or in 1901; and the facilities at Galveston are very complete for the prompt handling of cargoes from ship to rail. In 1902 the docks had only been opened a few months up to December; and of course as the men became more proficient the speed of the

vessels averaged faster; and that is what makes up the difference in the time between New York and El Paso.

Q. That is, the slower time by rail is made up by the faster time by the ships?

A. That is it.

Q. And greater rapidity in transferring?

A. Yes.

Mr. DUNNE. And, as he said, the superior character of the Galveston terminals, and its facilities.

Q. That is what I say—rapidity in transferring; that is by reason of that, as I understand. That is correct, isn't it?

A. Yes, sir.

Q. You are enabled to handle it faster through that terminal than through the Algiers terminal.

Mr. DUNNE. The trains are heavier now, as I understand it, the equipment is heavier.

Q. You gave some figures as to the number of miles per hour, which were a little confusing to me, on freight movement in 1902 and 1907, between Galveston and El Paso. Will you be kind enough to give those figures again and see if I can get it straight in my notes?

7412 The schedule time was 49 hours and 50 minutes in 1902.

A. From Galveston to El Paso, yes.

Q. How many miles is that per hour?

A. 17.8.

Q. Exclusive or inclusive of stops?

A. I think that includes stops.

Mr. DUNNE. Is that time-card speed?

WITNESS. That is the time-card speed.

Mr. SEVERANCE. That would include the stops?

Mr. DUNNE. Yes.

Q. For 1907 your time was 60 hours and 40 minutes. As I understood you, that was a schedule time of 14 hours and——

A. 14½ miles an hour.

Q. 14½ miles an hour. That is the time-card time?

A. Yes, sir.

Q. And the running time was what? 17½?

A. 17½; that was the average speed of all those trains; in both directions.

Mr. DUNNE. Is that actual running time?

WITNESS. That was the actual running time between stations.

Q. What was your actual running time, then, in 1902, when your time-card was 17.8?

Mr. DUNNE. Have you got that?

Mr. SEVERANCE. That, he stated once, was 17.6. And I could not see how it could be, when the other was 17.8.

WITNESS. Well, I did not give the movement of the other trains. That is probably what confused you. The time on the eastbound train was 53 hours and 20 minutes, at the speed of 16½ miles an hour; so that the average of the two was 17.6.

Q. That is the average schedule time?

A. That is the average running time.

Q. Perhaps we mean the same thing—I don't know, Mr.
7413 Fay. You say that the westbound train was scheduled at 17.8?

A. Yes.

Q. And the eastbound at what?

A. 16.5.

Q. Then the average of the two was as you stated, wasn't it?

A. The average running time of the two was 17.6.

Q. Exclusive of stops?

A. Exclusive of stops.

Q. What was the eastbound schedule in 1907, when you had the 60 hours and 40 minutes?

A. The eastbound schedule in 1907 was 13.5 miles an hour.

Q. I still think you are off on that other calculation. I cannot get it out of my mind that you are. Because you say now that the schedule one way was 14.4 and the other was 13.5; and the running time is 17.5. And in the other case, where it is 17.8, and 16 something, you say it ran 17.6.

A. That is due to the fact that our trains are much heavier now, consist of a great many more cars, and it takes a longer time to get them through the terminals and inspect them, etc.

Q. You gave, in answer to counsel, the total number of passengers carried between January 1, 1904, and December 31, 1906. It showed a remarkably excellent record in the safety of passengers. Have you those figures by years, that is, the number of passengers carried each year?

A. Yes, sir.

Q. Will you give them to me please?

A. Total number of passengers carried in the year 1904, 3,702,396.

Q. Have you the passenger miles for the same year?

A. Yes. Passengers carried 1 mile in that year, 242,522,149.

Mr. DUNNE. This is the number of passengers carried one mile that you are reading now?

WITNESS. Yes, the number of passengers carried 1 mile. You multiply the number of passengers carried by the average
7414 distance each passenger is carried, and that gets that result.

Mr. DUNNE. This is actual?

WITNESS. Yes. In 1905, there were 3,680,911 passengers carried. Passengers carried 1 mile, 215,597,861. In 1906 there were 4,570,532 passengers carried; carried 1 mile, 277,631,065. In 1907, number of passengers carried, 4,878,896; carried 1 mile, 314,337,578. 1908, passengers carried, 4,459,810; carried 1 mile, 288,194,961. In 1909, passengers carried, 5,058,445; carried 1 mile, 320,510,476.

Q. So you carried more passengers in 1909 than in any other year—even 1907?

A. Yes, sir.

By Mr. DUNNE:

Q. Mr. Severance asked you if the tourist cars beyond New Orleans has been discontinued. I think you said you thought they had been, that they are not being operated. Do you recall that question being asked?

A. I said I was not sure about the Chicago car; I thought the Cincinnati car had been discontinued but the Washington car was still being operated.

Q. You said the Washington car was still being operated; but you would not undertake to say positively that the Cincinnati tourist car, even, was not being operated, would you?

A. No; except that I said I didn't think it was. But there are people here who are more competent to testify about that than I am. I see these tourist cars in the trains, but I don't know where they come from.

Q. You don't know just exactly where they originate?

A. No.

An adjournment was then taken until the morning of Monday, February 28, 1910, at 10.30 o'clock.

7415 ROOM 720, CUSTOM HOUSE, NEW YORK CITY,
Monday, February 28, 1910—10.30 a. m.

The hearing was resumed before the Special Examiner, Hon. Sylvester G. Williams, at the above time and place.

Present: On behalf of the Complainant, Mr. C. A. Severance, Mr. G. E. Husted; on behalf of the Defendants, Mr. Peter F. Dunne, Mr. N. H. Loomis.

A. F. BREWER,

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination by Mr. LOOMIS:

Q. Please state your name, residence and occupation?

A. A. F. Brewer; Salt Lake City; present position, superintendent of the Utah division, Oregon Short Line Railroad.

Q. How long have you been connected with the Oregon Short Line?

A. With the Short Line proper, since 1893.

Q. Have you been closely associated with the general manager, during your connection with the Oregon Short Line?

A. I have.

Q. Have you come here because of Mr. Bancroft's inability to attend?

A. That is the reason, yes.

Q. Have you a statement showing physical condition of the Oregon Short Line Railroad on July 1, 1899, as compared with its condition July 1, 1909?

A. I have.

Q. Does it correctly show the facts with respect to the physical condition of the road?

A. It does.

7416 Q. Does it include branch lines?

A. Yes, sir.

Q. Additional construction during the period covered by the statement?

A. Yes, sir.

Q. And auxiliary companies of the Oregon Short Line, controlled by it?

A. Yes, sir.

Q. I wish you would turn to page 20 of the statement, containing a recapitulation of the figures preceding, and state the amounts which have been expended since July 1, 1909, by the Oregon Short Line.

A. A total amount of $20,069,316.29.

Q. Give the various items, please.

A. Main line $11,714,882.61.

Q. That is the main line, original property, is it not?

A. Main line, original property, yes, sir.

Q. Now, branch lines, original property.

A. Branch lines, original property, $331,390.68. Additions to original property, $355,351.75. Auxiliary branch lines, $5,626,702.41. Lines under construction, $2,040,988.84.

Q. The amount given in connection with the lines under construction, is that amount actually expended, or is that estimated?

A. This is the amount expended, up to the time that this statement was prepared.

Q. When was that?

A. July 1, 1909.

Q. Does the statement which you have testified about also include certain lines of railroad constructed by the Oregon Short Line between July 1, 1899, and June 30, 1909, and disposed of during the same period?

A. Yes, sir.

Mr. Loomis. The statement produced by the witness is marked Defendants' Exhibit 211 (Brewer), and is offered in evidence:

7417 Defendants' Exhibit 211 is as follows:

DEFENDANTS' EXHIBIT 211.

(Brewer.)

Statement showing physical condition of the Oregon Short Line Railroad on July 1st, 1899, as compared with its condition July 1st, 1909.

July 1, 1899, the main track mileage of the lines forming the corporate property of the Oregon Short Line Railroad was as follows:

	Miles.	
Granger to Huntington	541.81	
Sandy to McCammon	161.38	
Pocatello to Silver Bow	256.02	
Cache Valley Branch	42.35	
Wood River Branch	70.00	
Boise Branch	21.98	
Syracuse Branch	5.85	
Sandy to Frisco	226.07	
Lehi Junction to Tintic	53.52	
Eureka Branch	5.05	
Silver City Branch	5.00	
Silver City Jct. to Eureka	1.82	
Salt Lake to Terminus	37.32	
Saltair Junction to Saltair	2.42	
Total		1,430.59

7418 The following lines south of Salt Lake were sold to the San Pedro, Los Angeles & Salt Lake R. R. in June, 1903:

Sandy to Frisco	226.07	
Lehi Junction to Tintic	53.52	
Eureka Branch	5.05	
Silver City Branch	5.00	
Silver City Jct. to Eureka	1.82	
Salt Lake to Terminus	36.08	
Saltair Jct. to Saltair	2.42	
Total		329.96
Leaving of the original mileage		1,100.63

On June 30, 1909, there remained of the main track mileage of July 1, 1899, the following:

Granger to Huntington	541.48	
Sandy to McCammon	161.58	
Pocatello to Silver Bow	255.63	
Cache Valley Branch	42.30	
Wood River Branch	70.01	
Boise Branch	21.98	
Syracuse Branch	4.98	
Total		1,097.96
Total mileage lessened by line change and remeasurement		2.67

Additional mileage of main track was built as follows:

1902, Brigham to Corinne Junction	3.98	
1905, Extension Boise Branch	2.81	
1906, San Pedro, Connection at Salt Lake	1.02	
1907, Mendon to Logan Junction	14.92	
1908, North Kemmerer Branch	8.11	
Total		30.84

Making the main track mileage as shown for June 30, 1909, 1,128.80.

7419 The main lines of this property over which important and through traffic is handled are as follows:

Granger to Huntington	541.48
Sandy to McCammon	161.58
Pocatello to Silver Bow	255.63
	958.69

The following comparison applies to the 958.69 miles of through main lines of the Oregon Short Line Railroad Company property proper, only, as acquired and as since maintained, and does not apply to branch or feeder lines constructed under separate charters or to new branches constructed under O. S. L. charter as feeders, these being shown separately.

1. Right of Way and Station Grounds.

The right of way pertaining to the property when acquired has been maintained and in cases where necessary additional right of way has been acquired; this to the extent of $24,974.10.

Station grounds have in many cases been enlarged and additional space secured. At Salt Lake, property costing $635,492.59 has been acquired. Additional station grounds at other points have aggregated $19,158.65.

2. Real Estate.

While no great amount of such property has been acquired, the following are noted:

Land at Montpelier	$12,400.00
Land at Soda Springs	4,000.00

7420

3. Widening Cuts & Fills.

When acquired, the embankments and excavations showed evidence of little repairs or attention for many years past. As a result, the embankments were narrow and the excavations filled in to a considerable extent. During the years 1900 to 1908 inclusive, at an expense of $85,155.82, the embankments were widened to form a roadbed 18 feet in width and the excavations were widened to a width of 22 feet, over 836.55 miles. In many cases it was necessary to handle large quantities of rock in order to give the width required.

Snow sheds hitherto maintained as protection against snow were removed and the cuts widened to permit of handling the snow by other methods than shedding.

4. Protection of Banks.

Riprap has been placed where required or it seemed likely to be required to give greater security to the roadbed, at an expense of $45,384.26, or averaging $5,043.00 per year.

Dykes and levees costing $9,380.05 have been constructed.

Channel changes, thereby giving better run-off to streams, and the filling up of bridge crossings, were constructed at an expense of $32,169.68.

5. Grade Revisions and Changes of Line.

The grade revisions and line changes made at various places aggregating 31.64 miles in length resulted in shortening the line 0.76 miles, with a reduction in total curvature of 502° 12′. The original
7421 heavy grades which limited freight and passenger service were also reduced to correspond to our present standard maximum rate. The total cost of this work was $355,991.82.

In addition to the above, grades have been carefully rectified in connection with ballasting over 784.99 miles at a cost of $757,359.85.

6. Tunnel Improvements.

One tunnel, 1426 feet in length, was lined throughout with concrete and brick, replacing timber lining, at a cost of $36,746.00.

7. Bridges, Trestles & Culverts.

Promptly upon the opening of this epoch, it was ordered that so far as possible wooden bridges, trestles and culverts, as fast as worn out, should be renewed with permanent structures, in the event of their continuance seeming necessary. This policy has been carried out, and at the close of the last fiscal year, it has resulted as follows:

13,144.7 lineal feet of wooden bridges and trestles replaced with steel structures on masonry or concrete supports, at a cost of $717,184.98.

9,740.9 lineal feet of wooden bridges and trestles replaced with iron or concrete culverts at a cost of $174,008.47.

8,874.6 lineal feet of bridges and trestles filled and abandoned by reason of channel changes or the necessity of bridges being eliminated, at a cost of $4,185.32.

7,581.9 lineal feet of wooden or steel structures replaced with more modern construction of the same character, at a cost of $339,787.30.

7422 50,805.6 lineal feet of new permanent culverts built at a cost of $145,381.28.

8. Increased Weight of Rail.

On July 1, 1899, the 959.21 miles of main track was laid with rail as follows:

55.29	miles	of	52#	steel rail.
0.64	"	"	56#	"
445.05	"	"	60#	"
431.47	"	"	70#	"
26.76	"	"	75#	"

No rail of greater weight than 75 pound per yard.

On June 30, 1909, the same main track mileage, less 0.52 miles due to line changes, showed as follows:

1.98	miles	of	60#	steel rail
331.69	"	"	70#	"
18.47	"	"	75#	"
459.62	"	"	80#	"
4.82	"	"	85#	"
142.11	"	"	90#	"

The total cost of rail renewals has been $2,017,439.28.

9. Improved Frogs & Switches.

Frogs and switches have increased in weight with the increase in the weight of rail.

10. Track Fastenings & Other Material.

Instead of the old fish plate and angle bar in use at the time of the acquirement of this property, improved joint fastenings, tie plates, continuous joints, and the most modern appliances are used at the present time.

7423

11. Ballast.

July 1st, 1899, no ballast had been put in as such. After the widening of the embankments, ballasting was undertaken and continued until practically the entire main track mileage subjected to heavy traffic had been ballasted complete. On June 30, 1909, fully ballasted track amounted to 847.95, or 88% of the total main track mileage under consideration. The total cost of this work was $975,350.00.

12. Additional Main Tracks.

While the business has not as yet warranted the construction of second or third tracks for the handling of regular traffic, short sections of such tracks have been considered and in some cases constructed. On June 30, 1909, the second track amounted to 8.14 miles. The amount expended on this work being $96,549.12.

13. Sidings & Spur Tracks.

The inadequate sidings and spurs on July 1, 1899, have been augmented until on June 30, 1909, they amounted to 313.45 miles and were constructed at a cost of $1,975,396.00. Heavier power and equipment has made stronger and more expensive construction necessary.

14. Terminal Yards.

On July 1, 1899, there were no terminals requiring yards or terminal facilities of importance. Since that time the development has justified the construction of adequate terminals at the following points, at which a regular switching service is maintained:

Kemmerer, Montpelier, Pocatello, Glenn's Ferry, Nampa, Sandy, Salt Lake, Idaho Falls, Dubois, Lima and Silver Bow.

7424 The cost of construction of these terminal yards has been included in items 1, 8, 11, 13, 16, 18, 19, 20, 21, 22 and 24 of this report.

15. Fencing Right of Way.

On July 1, 1899, right of way fence consisted of 420.16 miles. On June 30, 1909, there were 809.06 miles for the corresponding property. The increase of 388.9 miles costing $136,130.06.

16. Improvements of Over or Under Grade Crossings.

While the laws of the states traversed are not such as to encourage the separation of the grade lines of wagon roads and steam roads, considerable has been done along this line. Viaducts, $108,748.78. Subways, $12,000.00.

17. Interlocking Apparatus.

No interlocking apparatus was in service on the property July 1st, 1899. Since that time, interlocking plants have been installed at a cost of $36,557.90.

18. Block and Other Signal Apparatus.

Nothing of this character pertained to the property at the time of its acquirement. Since July 1, 1899, electric automatic block signals have been installed on 335.2 miles of the property in question at a cost of $360,607.81.

In addition to the automatic block signals, the following signal apparatus has been installed:

57 Train Order Signals at a cost of	$6,990.26
20 Automatic Electric Semaphore Distant Signals	9,345.69
25 Crossing Gates and 5 Towers	4,457.66
35 Automatic Electric Crossing Bells	9,531.17

7425

19. Telegraph & Telephone Lines.

July 1, 1899, telegraph line was of light construction and consequently unsubstantial. Since that time $66,932.01 has been expended in reconstructing lines, and stringing additional wires.

20. Station Buildings.

Since July 1, 1899, many of the old original station buildings have been replaced with new modern structures. New freight and passenger stations constructed since July 1, 1899, aggregate $744,399.41.

21. Shops, Engine Houses & Turntables.

On July 1, 1899, but one shop for general repairs was maintained. Since that time, a new general shop has been constructed at Pocatello, at an expense of $591,727.20 for buildings and appurtenances, and $43,189.08 for shop machinery and tools. In addition to this, district terminal shops have been constructed at eleven district terminals, costing $259,153.35.

22. Shop Machinery & Tools.

See "21."

23. Water and Fuel Stations.

New water stations and new fuel stations have been established and old ones rebuilt and enlarged at an expense of $391,991.70 for water and $56,548.37 for fuel.

24. Snow & Sand Fences & Snow Sheds.

Snow fences have been maintained and kept in repair so far as considered necessary.

25. Miscellaneous Structures.

Including all buildings and structures not otherwise herein particularly referred to, the total cost of such structures being $413,077.61.

7426

Summary.

MAIN LINE.

1. Right of Way & Station Grounds	$679,625.32
2. Real Estate	16,400.00
3. Widening Cuts & Fills	85,155.82
4. Protection of Banks	86,933.99
5. Grade Revision & Changes of Line	1,113,351.67
6. Tunnel Improvements	36,746.00
7. Bridges, Trestles & Culverts	1,380,547.35
8. Increased Weight of Rail	2,017,439.28
11. Ballast	975,350.00
12. Additional Main Track	96,549.12

13. Sidings & Spur Tracks	1,975,396.00
15. Fencing Right of Way	136,130.06
16. Improvements of Over or Under Grade Crossings	120,748.78
17. Interlocking Apparatus	36,557.90
18. Block & Other Signal Apparatus	390,932.59
19. Telegraph & Telephone Lines	66,932.01
20. Station Buildings	744,399.41
21. Shops, Enginehouses & Turntables	894,069.63
23. Water & Fuel Stations	448,540.07
25. Miscellaneous Structures	413,077.61
Total	11,714,882.61

7427

BRANCH LINES.

Of the Branch Lines shown which remained under control of the present management, July 1, 1899, to June 30, 1909, the changes in the property may be briefly mentioned as follows:

Cache Valley Branch.

42.3 miles. This branch as acquired has been suitably and well maintained for the traffic requirements. More important changes made are as follows:

Increased Weight of Rail.—At the beginning of this period the rail in the main track of this branch was as follows:

42.22 miles of 52# steel
.13 " " 56# "

On June 30, 1909, as follows:

36.14 miles of 52# steel
.30 " " 56# "
5.86 " " 70# "

Cost of rail renewals has been $9,520.28.

Sidings & Spur Tracks:

July 1, 1899, 3.37 miles
June 30, 1909, 9.48 "

Cost of new sidings & Spurs has been $34,721.25.

Station Buildings.—During the period under consideration, new depots were constructed at Smithfield and Logan, and additions and improvements made at various places at a total cost of $8,414.02.

7428 *New Branch Lines.*—In 1907 a branch line was constructed from Mendon to Logan Junction, with necessary depots and other station facilities, 14.92 miles of main track, and 1.75 miles of sidings, giving railroad facilities to the towns of Wellsville and Hyrum and country tributary thereto, at a cost of $113,714.13.

Wood River Branch:

70.01 miles. This branch and its appurtenances as acquired has been well and suitably maintained for the traffic tributary thereto.

Station Buildings:—New depot and station facilities constructed at Richfield at a cost of $2,987.27.

Boise Branch:

21.98 miles. This branch has been well and suitably maintained for the traffic pertaining thereto. Principal changes as follows:

Increased Weight of Rail:—During this period, rail in main track has been changed from 52 pounds to 60 pounds per yard, with corresponding changes in frogs and switches, track fastenings, etc., at a cost of $11,953.99.

Sidings & Spur Tracks:—Such trackage has been increased from 1.41 miles to 11.96 miles. The cost of sidings and spur tracks, exclusive of Boise Terminal yards, was $6,876.54.

7429 *Terminal Yards.*—At Boise during this period, new yards were constructed at a cost of $46,804.28, providing 5.65 miles of sidings in this yard in place of 0.92 miles before the changes were undertaken.

Station Buildings and appurtenances have been constructed at a total cost of $12,748.63.

Shops, Enginehouses & Turntables.—During this period, new roundhouses, turntable, and shop facilities required at this point were constructed at a cost of $22,725.75.

Extensions of property.—During the year 1905, an extension of the Boise Branch was constructed 2.81 miles main line and 1.07 miles side track, to the Barber Mill, at a cost of $60,924.54, changing the main track mileage of this branch from 21.98 miles to 24.79 miles.

Syracuse Branch:

4.98 miles. This branch has been maintained during the period in a suitable manner for the handling of business tributary to it.

7430 ADDITIONAL MILEAGE OF MAIN TRACK CONSTRUCTED AS A PART OF THE ORIGINAL PROPERTY DURING THIS PERIOD.

Brigham to Corinne.

Constructed 1902; 3.98 miles.

This additional main track was constructed to serve as a connection between the main line of the Southern Pacific Railroad and the main line of the Oregon Short Line Railroad at Brigham, Utah, with a view to handling all Southern Pacific traffic over this proposed connection. Cost $59,597.50. It was constructed after modern methods and fully ballasted, with a view to its use for Southern Pacific main line traffic.

Since the construction of the Lucin Cut-Off, this connection has been used for all regular trains to and from the Malad Valley Railroad and all regular trains using that portion of the Southern Pacific between Brigham and Umbria Junction.

San Pedro connection at Salt Lake.

Constructed 1906; 1.02 miles.

This connection was constructed for the purpose of permitting the San Pedro, Los Angeles and Salt Lake passenger trains to enter the Salt Lake yard in such a way as to give convenient access to the terminal facilities at Salt Lake. It was well constructed and ballasted throughout, with a view to providing first class main line track, at a cost of $77,826.35.

North Kemmerer Branch.

Constructed 1908; 8.11 miles.

This branch was constructed northerly from Kemmerer for the purpose of serving coal mines being opened by private parties. The construction was of such character as to handle a heavy coal traffic, to which it is subject, total cost being $217,927.90.

7431 SUMMARY.

Branches.

Cache Valley Branch:	
Increased weight of rail	$9,520.28
Sidings & spurs	34,721.25
Station buildings	8,414.02
New branch lines	113,714.13
Total	116,369.68
Wood River Branch:	
Station Buildings	2,987.27
Boise Branch:	
Increased weight of rail	11,953.99
Sidings & spurs	6,876.54
Terminal yards	46,804.28
Station buildings	12,748.63
Shops, enginehouses & turntables	22,725.75
Extensions of property	60,924.54
Total	162,033.73

SUMMARY, ADDITIONS TO ORIGINAL PROPERTY.

Brigham to Corinne	59,597.50
San Pedro connection at Salt Lake	77,826.35
North Kemmerer Branch	217,927.90
Total	$355,351.57

7432 *Auxiliary controlled branch lines of Oregon Short Line Railroad Company constructed under separate charters but under the direction and control of the Oregon Short Line Railroad, with a view to furnishing facilities to hitherto undeveloped or unserved territory.*

Name of Line.	Year Ending June 30.	Main Line Miles.	Side Tracks Miles.	Cost.
St. Anthony R. R.:				
Idaho Falls to St. Anthony	1900	37.36	5.37	$397,919.76
Sugar City Branch	1905	5.78	.69	17,076.68
Elva Branch	1905	10.17	.89	39,386.78
Wyoming Western R. R.:				
Moyer Jct. to Cumberland	1901	19.02	8.91	292,127.28
Elkol Branch	1909	3.62	1.31	59,547.58
Salmon River R. R.	1902	85.99	5.92	880,911.90
Malad Valley R. R.:				
Corinne to Garland	1903	14.57	4.88	147,142.97
Garland to Malad	1906	31.83	2.65	363,705.09
Minidoka & Southwestern R. R.:				
Minidoka to Twin Falls	1906	59.09	6.18	778,471.64
Twin Falls to Buhl	1908	15.19	2.15	293,901.44
Yellowstone Park R. R.	1906 to 1909	70.36	8.66	2,161,577.19
Malheur Valley Ry	1907	14.24	1.48	194,934.10
Total	.....	367.22	49.09	$5,626,702.41

7433 *Lines under construction*

Name of Line.	Year Ending June 30.	Main Line Miles.	Side Tracks Miles.	Cost.
Northwestern R. R.	1909	41.54	5.13	$1,992,325.75
Minidoka & Southwestern R. R. (Twin Falls Branch)	1909	0.38	0.56	48,338.99
Salmon River R. R. (Aberdeen Branch)	1909	No rail laid		324.10
Total	.....	41.92	5.69	$2,040,988.84

Recapitulation.

Main Line Original Property	$11,714,882.61
Branch Lines, "	331,390.68
Additions to Original Property	355,351.75
Auxiliary Branch Lines	5,626,702.41
Lines under construction	2,040,988.84
Total	$20,069,316.29

7434 *Lines of railroad constructed by the Oregon Short Line R. R. between July 1, 1899 and June 30, 1909, and disposed of during same period*

Leamington Cut-off Railroad 115.48 Miles, cost $2,625,774.13
Utah, Nevada & California R. R.:
40.47 Miles of track laid, about 42 miles of grading with no track laid, cost $1,407,109.69

Lines of railroad purchased or acquired by the Oregon Short Line Railroad between July 1, 1899 and June 30, 1909 and disposed of during same period

Utah & Pacific (74.61 miles), cost, $703,599.20.
New East Tintic Railway (1.99 miles), cost, $44,458.30.
The above lines were sold in 1903 to the San Pedro, Los Angeles & Salt Lake Railroad.

NOTE.—The above lines are not included in mileage shown in foregoing pages, nor are costs included, for the reason that these lines were constructed and sold, or purchased and sold, during period covered by this report.

7435 Q. Please state if you have also had prepared a statement showing mileage and estimated cost of side tracks and second track, built, authorized and proposed, for the period June 30, to December 31, 1909?

A. Yes, sir.

Q. I will ask you if Defendants' Exhibit 212 is the statement, and if it is a correct statement?

A. It is a correct statement, yes, sir.

Mr. LOOMIS. I offer in evidence Defendants' Exhibit 212 (Brewer).

Defendants' Exhibit 212 is as follows:

7436 DEFENDANTS' EXHIBIT 212.

(Brewer)

OREGON SHORT LINE RAILROAD.

Statement showing mileage and estimated cost of side tracks and second track built, authorized, and proposed for the period June 30 to Dec. 31, 1909.

	Built.		Authorized but not constructed.		Authority Requested But not yet Approved.		Total Built, Authorized and Requested.	
	No. Miles.	Est. Cost.	No. Miles.	Est. Cost.	No. Miles.	Est. Cost.	No. Miles.	Est. Cost.
Side Tracks.....	17.39	$195,199.00	12.74	$134,052.00	24.64	$416,837.00	54.77	$746,088.00
2nd Tracks	7.84	139,387.00	12.95	246,045.00	10.06	280,854.00	30.85	666,286.00

7437 Q. I will ask if you have also prepared a statement showing the amount of business handled by the Oregon Short Line Railroad Company between the years 1900 and 1909, inclusive.

A. Yes, sir.

Q. Giving the tons per train, all freight, tons one mile all freight, and passengers one mile?

A. Yes, sir.

Q. Is Defendants' Exhibit 213 the statement?

A. Yes, sir.

Mr. LOOMIS. I offer in evidence Defendants' Exhibit 213 (Brewer).

Defendants' Exhibit 213 is as follows:

DEFENDANTS' EXHIBIT 213.

(Brewer)

Oregon Short Line R. R. Co.

Year.	Tons per Train all Freight.	Tons one Mile All Freight.	Passengers One Mile.
		#	%
1900	392. 39	990, 570, 383	71, 426, 735
1901	390. 64	1, 201, 473, 392	86, 068, 658
1902	437. 20	1, 306, 145, 375	99, 714, 755
1903	434. 70	1, 236, 690, 556	95, 872, 117
1904	516. 47	1, 464, 971, 810	105, 981, 911
1905	577. 86	1, 594, 502, 274	132, 736, 899
1906	558. 48	1, 644, 128, 596	140, 310, 323
1907	530. 03	1, 397, 796, 123	156, 521, 584
1908	526. 27	1, 495, 759, 248	165, 591, 504
1909	569. 61		

#737,497,886; %63,955,579.

7438 Q. Have you some photographs of passenger depots erected by the Oregon Short Line during the period covered by the statement which has been introduced in evidence and marked Defendants' Exhibit 211?

A. Yes, sir.

Q. I wish you would produce them.

A. Defendants' Exhibit 214 (Brewer) is a photograph of the freight depot, Salt Lake City. Defendants' Exhibit 215 (Brewer) is an interior view of the passenger station at Salt Lake City. Defendants' Exhibit 216 (Brewer) is also an interior view of the passenger station at Salt Lake City. Defendants' Exhibit 217 (Brewer) is a photograph of the passenger depot at Boise, Idaho. Defendants' Exhibits 218 and 219 are photographs of the passenger depot at Nampa, Idaho. Defendants' Exhibit 220 (Brewer) is a photograph of the passenger depot at Caldwell, Idaho. Defendants' Exhibit 221 (Brewer) is a photograph of the passenger depot at Payette, Idaho.

Q. Have you some photographs showing other views upon the Oregon Short Line Railroad?

A. Yes, sir. Defendants' Exhibit 223 (Brewer) is a photograph of San Ridge cut-off, which is a shortening of the line into the Ogden union depot, affording a better entrance. Defendants' Exhibit 224 (Brewer) is a photograph of the Weber River Bridge, in the same cut-off, located one mile south of Ogden. Defendants' Exhibit 225 (Brewer) is a view of block signals at a point approaching McCammon, Idaho. Defendants' Exhibit 226 (Brewer) is a photograph of icehouses at Pocatello, Idaho. Defendants' Exhibit 227

7439 (Brewer) is a photograph of the yards at Pocatello, Idaho.

Defendants' Exhibit 228 (Brewer) is a photograph giving a view entering Beaver Canyon.

Defendants' Exhibits 214 to 228, inclusive, were offered in evidence by the Defendants, under the stipulation heretofore made regarding other photographs.

Cross-examination by Mr. SEVERANCE:

Q. As I understand it, the main line of the Oregon Short Line road runs from Granger, Wyoming, to Huntington, Oregon, doesn't it?

A. Yes, sir.

Q. You also have a line beginning at Salt Lake City, passing through Ogden, intersecting this main line at Pocatello?

A. Yes.

Q. And running up to Silver Bow, Montana?

A. Yes, sir.

Q. Where is Silver Bow with reference to Butte?

A. It is about four miles south of Butte.

Q. How do you get into Butte?

A. Over the Northern Pacific tracks.

Q. Under what kind of an arrangement?

A. It is a trackage lease, I think.

Q. Do you run your own trains in?

A. Our own trains run right in there.

Q. So, although you do not own that track from Silver Bow to Butte, for all practical purposes you reach Butte with your lines?

A. Yes.

Q. Do your trains run beyond Butte?

A. No.

7440 Q. Butte is your terminus?

A. Yes, sir.

Q. I see on this list a statement "Sandy to McCammon;" is that a line that reaches the coal mines?

A. No.

Q. Where is that?

A. Sandy is just south of Salt Lake. It serves all the smelters in what is called the Utah Valley.

Q. Sandy is south of Salt Lake?

A. Sandy is south of Salt Lake.

Q. Where is McCammon?

A. McCammon is between Ogden and Pocatello, you might say. You really strike the main line at McCammon.

Q. McCammon is up in Idaho, isn't it?

A. McCammon is in Idaho, yes. They divide it, Sandy to McCammon, in order to avoid duplicating the mileage. This map would show just the place. [Indicating.]

Q. You divide it into the 161 miles from Sandy, just south of Salt Lake, up to McCammon?

A. Yes.

Q. And then from Pocatello up to Silver Bow?

A. Yes.

Q. Now, that concludes your whole line, except some small branches?

A. Except the branches, yes.

Q. How far south of Salt Lake is Sandy?

A. 12.5 miles.

Q. Look on page 10 of Defendants' Exhibit 211, under the head of "Miscellaneous Structures." What are they?

A. This was more specially intended to cover all small buildings and structures that were not specially listed in here [indicating] and cover section houses, small shop plants, and so forth. I could not give it to you in detail.

Q. I notice that on page 9 you list "Station Buildings" and "Water and Fuel Stations."

7441 A. Yes, but there is very little reference made in this itemized list, to special structures, outside of one or two station buildings and the shop at Pocatello.

Q. The construction of these buildings, whatever they are, has extended over a period of about ten years, hasn't it?

A. Yes, sir.

Q. So it averages only about $40,000 a year?

A. Something like that, yes.

Q. Where is Logan Junction?

A. Logan Junction is just north of Cache Junction. If you went from Ogden to Pocatello you would pass Cache Junction, and branch off to the north and east from Cache Junction; Logan Junction is a point just above Cache Junction.

Q. What was the line from Mendon to Logan Junction built for?

A. To serve a couple of small towns in there; Hyrum and Wellsville.

Q. That is in Utah, or southern Idaho?

A. In Utah.

Q. Where is the Wood River branch?

A. The Wood River branch extends north from Shoshone, Idaho, to Ketchum.

Q. When was that line built? It does not state here.

A. That was built prior to 1890; I don't know the exact date. It is one of the old branches.

Q. Prior to 1890?

A. Oh, yes. Prior to the date of this statement. I know it was in operation in 1890, when I first came on the line.

Q. Why is it put in this statement on page 13, under the head of "New Branch Lines," then?

A. I think there was a little addition to that—a mile and a fraction; wasn't there?

7442 Q. Oh, it is put in as having reference to that expenditure of $2,900?

A. It simply has listed all of the branches, and shows that repairs and renewals have been maintained suitable for the traffic which it was to handle.

Q. You mean by that, simply, that you had this Wood River branch for a good many years, and you have kept it in condition to do business over?

A. Yes.

Q. That should not appear, then, under the head of a new branch line, should it, as it does?

A. No, it is not intended that way.

Q. Isn't it? Look at page 13, and see what the head line is at the top of the page—"New Branch Lines." First, you have that line from Mendon to Logan Junction, and then the Wood River Branch, and then the Boise branch.

Mr. LOOMIS. It gives the date it was built. 1907.

Mr. SEVERANCE. No, I am speaking of the Wood River branch, I do not see any statement here of when that was built. It stands on this statement as a new branch, constructed between 1899 and 1909.

Mr. LOOMIS. There is no expenditure given for it as a new branch line, at all.

Q. Anyway, so the record will be clear, it is not contended that this Wood River branch was built during the 10-year period covered by Defendants' Exhibit 211, is it?

A. No, sir.

Q. And all you mean to testify to is that during that time you spent $2,900 on new station buildings on this 70 miles of road?

A. Yes.

Q. And that you have maintained it in sufficiently good
7443 condition to do business over?

A. Yes, sir, that is all.

Q. How about the Boise branch? When was that built? It is on this same page—page 13 of Defendants' Exhibit 211.

A. The Boise Branch is also an old branch, and is shown in there because of the fact that the main track had been changed from 52-lb steel to 60-lb.

Q. When was that change made?

A. I could not give you the definite date; somewhere along about 1903 or 1904.

Q. You still have that 60-lb. rail in that branch, do you?

A. Yes, sir.

Q. Is there a good deal of traffic over that branch?

A. Principally passenger traffic.

Q. You don't do freight traffic into Boise?

A. Yes, we do; but the principal traffic, that is, the principal number of trains run, are passenger trains.

Q. Boise is the capital city of Idaho, isn't it?

A. Yes, sir.

Q. Is it the largest town in Idaho?

A. That is questionable. I think——

Q. Is Wallace larger?
A. I think so.
Q. It is the largest town in southern Idaho, isn't it?
A. Yes.
Q. A wholsaling point?
A. Yes, jobbing.
Q. It is about 22 miles from Nampa, isn't it?
A. Yes, sir.
Q. It is on the main line to Huntington?
A. Yes, sir.
Q. Then, that is an old branch. And all that you have done there is to take out one class of light rail and put in another class of light rail—8 lbs. heavier,—and put in some siding and spur tracks?
A. Yes.
Q. And increased the terminal yards?
A. Yes, sir, increased the terminal yards.
7444 Q. Take the Syracuse branch, which is mentioned on page 14. Has that been built during this 10-year period?
A. No, sir.
Q. Is that an old one?
A. That is an old branch, also.
Q. What do you put that in here for? You do not seem to have spent any money on it.
A. The chief engineer, in compiling the statement, wanted to include all branch lines and all the property, and, to see that all of the betterments and improvements were shown, they included all of the branches as they went along.
Q. You do not seem to have put any money into betterments or improvements on the Syracuse branch at all.
A. There was practically nothing done on that line; no business.
Q. Turning back to page 12, there is the Cache Valley branch. That is an old branch, too, isn't it?
A. Yes, sir.
Q. When was that built?
A. Sometime prior to 1890.
Q. Your improvements there consist of certain increases in the weight of steel, sidings and spur tracks, and a couple of new depots?
A. Yes, sir.
Q. You have, beginning on page 15, some new construction—Brigham to Corinne, a little under 4 miles?
A. Yes.
Q. That was built as stated here, I suppose, to make a connection between the Southern Pacific and the main line of the Short Line?
A. Yes, sir.
Q. In a note here you say that since the construction of the Lucin cut-off this connection has been used for all regular trains to and from the Malad Valley Railroad and all regular trains using that portion of the Southern Pacific between Brigham and Umbria

7445 Junction. The Lucin cut-off is the line across Salt Lake, isn't it?

A. Yes, sir.

Q. And since that was built, as I understand it, the Southern Pacific from the Malad Valley use this little track of 4 miles, instead of using their old line?

A. Yes, instead of using the old line of the Southern Pacific by Promontory Point.

Q. The next piece of new construction is 1.02 miles, built in 1906, for the purpose of permitting the San Pedro passenger trains to enter the Salt Lake yards in such a way as to give convenient access to the terminal facilities at Salt Lake. That was done pursuant to your traffic contract or yard contract with the Salt Lake road, wasn't it?

A. Yes, that would naturally follow, I think.

Q. Where is the North Kemmerer branch? Is that in Wyoming?

A. That is in Wyoming, in the coal fields.

Q. You say "The construction was of such character as to handle a heavy coal traffic, to which it is subject." There is a big coal traffic out of there, isn't there?

A. Yes, sir.

Q. You haul the coal into Salt Lake, don't you?

A. Some of it; not very much of that coal comes to Salt Lake.

Q. Where does it go to?

A. The greater portion of it is consumed in Idaho; and some of it in Oregon and Washington. The greater tonnage from those mines is used by the Oregon Short Line for its locomotives, and by the O. R. & N. for the same purpose; that is, speaking of the Cumberland mine property. The Diamondville mine output goes to the Amalgamated Smelters at Anaconda.

Q. Now, turn to page 18. The page is headed "Auxiliary Controlled Branch Lines of Oregon Short Line Railroad Company,

7446 constructed under separate Charters but under the direction and control of the Oregon Short Line Railroad, with a view to furnishing facilities to hitherto undeveloped or unserved territory." The first of those is "Idaho Falls to St. Anthony." That was built in 1900, wasn't it?

A. Yes, sir.

Q. Are the other two lines under the head of "St. Anthony R. R.," branches of that line?

A. Yes, sir.

Q. When was work started on the Wyoming Western from Moyer Junction to Cumberland? That seems to have been built in the year ending June 30, 1901. It seems to have been finished by June 30, 1901.

A. I think that was about two years under construction.

Q. Where is Moyer Junction?

A. Moyer Junction is on the main line between Huntington and Granger, at a point 42.3 miles west of Granger.

Q. Then I notice "Salmon River R. R." It seems to have been finished the year ending June 30, 1902—85 miles of road, at a cost of a little over $880,000. When was that construction begun?

A. About three years prior to the date it was finished.

Q. Where is the Salmon River Railroad?

A. It extends from Blackfoot, Idaho, just north of Pocatello, to the town of Mackay; headed toward Salmon City in Idaho.

Q. The next item on this page is "Yellowstone Park R. R.;" built from 1906 to 1909,—70 miles, at a cost of something over $2,161,000. What was that line built for—tourist travel into the Park?

A. Principally, yes, sir.

Q. That is competitive with the Northern Pacific, isn't it? That is, they both serve the Yellowstone Park?

A. They both serve the Yellowstone Park.

7447 Q. Bring tourists from the east?

A. Yes, sir.

Q. I see this line is 70 miles long. Is it 70 miles from the original line of the Oregon Short Line east to the Park?

A. No, sir, that mileage is from St. Anthony, I think. Yes, sir, the St. Anthony branch as originally constructed was from Idaho Falls to St. Anthony, and then from St. Anthony to Yellowstone station makes it 70 miles.

Q. Then it is only a hundred miles or a little over from the main line to the Park?

A. Yes, sir; 107.6 from Idaho Falls.

Q. The last item on page 18 is, "Malheur Valley Railway," 14 miles long. That is in eastern Oregon, isn't it?

A. Yes, sir.

Q. Does that railroad run up through a canyon?

A. I think not. I have never been over that personally. It is my understanding though that it is through a valley there; agricultural country; extends up to the little town of Vale.

Q. Doesn't it pass through a canyon, through which the Malheur River flows, in getting there?

A. I believe it does, yes.

Q. This line was finished, you say, in the year ending June 30, 1907. When was it begun, do you know?

A. It is my recollection that it was only a little over a year in construction.

Q. It was begun about 1906?

A. I think so, yes, sir.

Q. Or 1905, which?

A. Possibly in the fall of 1905. I think that was the time.

Q. And has not been extended beyond Vale since it was built to that point?

A. Not yet, no, except that it extends a fraction of a mile beyond Vale; that is the end of the track. The total mileage is only 16 miles. 9/10 of a mile beyond——

7448 Q. It is shown on page 18 of Defendants' Exhibit 211 to be 14.24 miles.

A. Yes.

Q. On page 19 you have "Lines under Construction." What is the "Northwestern" Railroad?

A. The Northwestern is a line that is being constructed along the Snake River, from the town of Blakes, just east of Huntington, towards Lewiston, Idaho.

Q. Does it follow the river?

A. Pretty closely, I understand, all the way.

Q. Your line runs along the Snake River now, doesn't it?

A. Yes.

Q. Is this on the other side of the river?

A. This, you see, would be getting away from the O. R. & N., extending north instead of in a westerly direction.

Q. This line is stated here to be 41.54 miles long and to have cost a little under 2 million dollars. When was that begun?

A. That has been under construction about three years and a half, I think.

Q. And does this amount of $1,992,000 include all that has been spent?

A. Up to the time this statement was prepared, yes; that was the end of the fiscal year.

Q. And the total mileage constructed was 41.54?

A. Yes.

Q. How far is it to Lewiston from Huntington?

A. I think the line is just about half built, or very near that.

Q. This line is a projected line, to give you entrance to Lewiston?

A. Yes, sir.

Q. Lewiston is now reached by what railroad?

A. It is reached by the water lines, principally. I don't know but what the Northern Pacific gets in there.

7449 Q. That is what I thought. And there are boats into Lewiston?

A. Yes.

Q. And the Northern Pacific?

A. Yes, sir.

Q. Where is the Minidoka & Southwestern? It seems to be a very short piece of road.

A. That is a little spur that is out from the Twin Falls branch. That is under construction now—or was at that time. The Minidoka & Southwestern branch was completed from Minidoka to Twin Falls, or to Buhl.

Q. Calling your attention to Defendants' Exhibit 212, that covers the period between June 30, 1909, and December 31, 1909.

A. To the end of the year, yes.

Q. It does not say "1909," but I supposed that was it. This statement is headed "Mileage and Estimated Cost of Side Tracks and

Second Track, built, authorized and proposed," and aggregates, sidetracks, $746,088; but of that you have only built $195,000 worth.

A. Yes.

Q. What is the total amount shown opposite the heading "Second Track?"

A. $666,286.

Q. How much of that has been actually spent?

A. $139,000.

Q. How much of those large totals are under the head of "Authority Requested but not yet approved?"

A. On the sidetracks, in round figures, $416,000.

Q. Out of how much?

A. Out of $746,000. You see $134,000 has been authorized. $195,000 has already been spent on sidetracks; and requested but not yet approved, $416,837.

Q. Now, read the items under the head "Second Tracks."

A. Number of miles built, 7.84; $139,387. Authorized but not
7450 constructed, estimated cost $246,000. Authority requested but not yet approved, $280,854.

Q. Out of a total of how much?

A. $666,000.

Q. Then, out of this grand total, which aggregates about $1,400,000 in the two items, there is about $700,000 that may never be spent at all, as the request for authority to expend it has not been approved?

A. I do not think there will be any question but what the authority will be received and it will be spent; it is an absolute necessity in fact, that they do it.

Q. But you haven't got the authority yet?

A. At the time this statement was prepared, no, sir.

Q. Calling your attention to Defendants' Exhibit 213, what is the explanation of the two foot-notes?

A. The figures shown for the year 1900, under "Tons one mile," and "Passengers one mile," were compiled in that period in a little different shape; in fact, they were shown ton miles per mile of road operated. And in order to make the statement uniform, our comptroller estimated these figures, or, rather, arrived at them from a different source; so that we showed them as a foot note rather than in there (indicating), because of the manner in which he had to secure the figures.

Q. But you regard the items as correctly stated, do you?

A. Yes, sir.

Q. Just the same as though they had been carried into the columns with the others?

A. Just as near as we could get it, except we had to restate it.

Q. I notice that from 1901 to 1909 your tons one mile all
7451 freight increased from 990,000,000 (I will give the round figures) to 1,495,000,000, which is almost exactly 50 per cent?

A. Yes, sir.

Q. Your passengers one mile increased from 71,000,000 to 165,000,000?

A. Yes, sir.

Q. Which, in round figures, is 125 per cent?

A. Very closely, yes, sir.

Q. Your tons per train all freight increased, from 1901 to 1909, from 390.64, to 569.61. Then you are hauling your additional freight, the larger amount of freight that moved in 1909, in less trains than it took to haul that freight in 1901, owing to the heavier loading?

A. Yes, we are hauling heavier trains.

Q. Aren't you hauling this traffic which has increased 50 per cent over 1901, in less trains than it took to handle the traffic in 1901?

A. No, sir.

Q. Look at your percentages. You had 390 tons per train in 1901, and you have 569 tons now. What per cent of increase is that in the weight of loading? I guess you are right, probably it would not be quite 50 per cent. It is not quite 50 per cent? How many scheduled freight trains did you have in 1901?

A. There was only one each way.

Q. And still just one?

A. Yes, sir, one through train.

Q. I mean through train. I mean on the main line from Granger to Huntington?

A. Yes, sir.

Q. You still have one?

A. Yes, sir.

Q. And you carry additional traffic, whenever necessary, in one or two sections?

A. Yes, sir.

Q. Do you remember what your schedule time was in 1901 for that freight train, from Granger to Huntington? Have you that information here?

7452

A. The freight train schedule in 1901 up to the present time has been almost stationary; that is, it has averaged about 41 hours from Green River to Huntington or 38 hours from Granger to Huntington; as I recollect, about 13 miles an hour, then; and it is practically the same to-day. The schedule at the present time is about 38 hours and 35 minutes, I think, or something of that kind; very close to it.

Q. Have you the data with you? Can you turn to it and see what that schedule is?

A. No, I have not; except that I looked over the time, just to see what the freight schedules were,—but I didn't bring them with me.

Q. You say they have remained about stationary?

A. Yes, sir.

Q. How recently did you look them up?

A. Just before I left Salt Lake. I looked over the old schedules, the time card schedules. We had a file of them there. They ran along very uniformly, about 41 hours from Green River to Huntington, in the last 10 years.

Q. Are you able to state whether they are just the same—that there has been no change?

A. What I mean is, on an average. Sometimes they go up to 42 hours, or back to 39 hours and a half; hung around about 41 hours there, on the through schedule, all during the period of 10 years.

Q. And they are still there?

A. Yes, sir.

Q. Do you handle traffic to Butte over the Union Pacific and Short Line, originating east of the Missouri River?

A. Yes, sir.

Q. There is quite a traffic in there, isn't there?

A. Not very heavy for us, no sir.

Q. How is it mostly moved—by the Northern lines?

A. By the Northern lines.

Q. Do you have a considerable traffic out of Butte?

A. No, sir.

Q. Copper?

A. No; out of Butte the copper does not run over three to five cars a week; 50-ton cars.

Q. The Northern lines get most of that do they?

A. Yes.

7453 G. F. RICHARDSON,

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination by Mr. DUNNE.

Q. Mr. Richardson, you are connected with the Southern Pacific Company, are you not?

A. Yes, sir.

Q. In what capacity?

A. As superintendent of transportation.

Q. For how long?

A. Since 1895.

Q. There was some question raised here the other day in relation to freight movement from Omaha to San Francisco, based on 168 cars. There seemed to be some little confusion about that. I believe you prepared the data; did you not?

A. I did.

Q. And you have the detail with you, if Mr. Severance cares to see it?

A. I have.

Q. I would like you just to explain that matter, in your own way.

A. We merely took what we considered a representative number of cars and followed the time made by them from Omaha to San Francisco, under a system that we have for following the movement of through freight, known as the manifest system. So far as

the actual selection of the cars by number is concerned, I merely asked a clerk in my office to give me the time made by about 100 cars during a certain period, which I do not just recall now, but that which I have here will show, and he gave me the record of those particular 168 cars.

Q. The 168 cars did not represent the entire San Francisco freight?

A. Not at all.

Q. Simply represented the cars?

A. That is what we considered it.

Q. Did you give your clerk any instructions to select any particular cars?

A. I did not. He didn't even know for what purpose the information was wanted.

7454 Q. Can you state briefly what the passenger train service was in 1900 and what it has been since, via El Paso?

A. In 1900 we had one through passenger train between New Orleans and San Francisco daily, and in addition thereto we had what was known as the Sunset Limited, which has been quite fully described here.

Q. What did that through passenger train consist of at that time?

A. It consisted of the usual head-end cars, coaches, sleepers, and tourist cars.

Q. Did it have any diner or observation car?

A. It did not.

Q. Will you proceed, Mr. Richardson.

A. In 1902, after the discontinuance of the Sunset Limited, there was a second daily through train put on, and that train has run more or less continuously ever since.

Q. What was the consist of that train?

A. Very similar at the beginning to the train I have just described, in fact substantially the same. The second train that I speak of is now running over all of the lines between New Orleans and San Francisco except between San Antonio and El Paso; that is to say, the lines east of El Paso run this train between New Orleans and San Antonio, and the line west of El Paso runs it daily between El Paso and San Francisco.

Q. Do you mean to say that you have a daily train (I would like to avoid any confusion about that) from New Orleans to San Antonio on the Sunset Route?

A. Yes.

Q. And in addition to that you have a daily train between El Paso and San Francisco on the Sunset Route?

A. That is right.

Q. Have you any other train service in passenger traffic besides that?

7455 A. Yes. In November, 1902, a train known as the Golden State Limited was put on.

Q. Before you come to that train: did you have a through train between New Orleans and San Francisco besides the trains from New

Orleans to San Antonio and the train to El Paso that you have just spoken of?

A. Yes.

Q. I wish you would make that clear.

A. I have already covered that. We had one through train from New Orleans to San Francisco at that time, have had ever since and now have.

Q. Is that train equipped with a diner?

A. It is now; it was not formerly.

Q. When was it equipped with a diner and observation car?

A. I think in 1902, when the Sunset Limited train was withdrawn.

Q. Now, that is a through train, without gap or break, between New Orleans and San Francisco? Is that right?

A. Unless you call a slight lay-over at Los Angeles a break in the schedule.

Q. I am distinguishing it now from another train that you speak of. That was the train from New Orleans to San Francisco?

A. That is right.

Q. Which went all the way through?

A. Yes.

Q. And in 1902 its consist was as you have just described it?

A. Including a dining car.

Q. Exactly. Now I want to understand clearly if, in addition to that through train between New Orleans and San Francisco, there was another passenger train operated that went from New Orleans west?

A. There was.

Q. How far west did it go?

A. In 1902 it went through to San Francisco; it has been run through at different periods since that time, but not continu-
7456 ously. A part of the time it has run as it is running now, that is, between New Orleans and San Antonio——

Q. That is the point I wish you would make clear—between New Orleans and San Antonio.

A. And between El Paso and San Francisco.

Q. Then, for the accommodation of passenger traffic upon the Sunset Lines, there is a train run from New Orleans to San Antonio, is there not?

A. Yes, sir.

Q. There is also a train run for the accommodation of passenger traffic between El Paso and San Francisco?

A. Yes.

Q. When was that service first put in?

A. As I just stated.

Q. Generally, approximately.

A. I can't name the dates.

Q. I don't care for the exact date.

A. As I stated a moment ago, the train has run over a portion of the line at various periods during the past ten years. When it did

not run over all the line it did run for most of the time west of El Paso.

Q. I understand that, but has that train been running since 1900?

A. Continuously?

Q. Continuously or otherwise.

A. Yes.

Mr. SEVERANCE. Part of the time it is two trains and part of the time one, as I understand it.

WITNESS. That is right.

Q. Between 1900 and the present time you have been operating a train between New Orleans and San Antonio, have you not?

A. Yes.

Q. You have also been operating a train between El Paso and San Francisco?

A. Yes.

Q. What I want to understand clearly is this: over and
7457 above that train service, since 1902, when the Sunset Limited was discontinued, have you been operating a through train all the way from New Orleans to San Francisco, with the consist that you have described?

A. Yes.

Q. Did the Southern Pacific lines via El Paso have a passenger train over and above these two passenger trains that you have spoken of? Did they have a train in connection with the Rock Island?

A. Yes; a train was put on in connection with the Rock Island in the fall of 1902.

Q. How long was that train operated?

A. That train ran until May 1, 1903; it was then discontinued during the summer months, resumed in December of that year and ran until April, 1904; it was again discontinued during the summer months, and again resumed in December of that year, and has run continuously daily ever since.

Q. What is the consist of that train?

A. That train consists of a mail car, baggage car, diner, sleepers, and observation car.

Q. Over and above that train and since 1900 has any still further passenger service been installed by way of the Sunset Lines and El Paso?

A. We have another train making a Rock Island connection at El Paso, running between that point and Los Angeles.

Q. When was that train put on?

A. That was put on in January of the present year.

Q. And what is its consist?

A. It consists of a mail car, baggage car, chair car, diner, sleeper, and tourist cars.

Q. As against that what was the train service in 1900?

A. The train service in 1900 consisted of one through train,
7458 also the Sunset Limited.

Q. Mr. Fay has given the times, weekly and semi-weekly, and towards the end tri-weekly, of this Sunset train. I won't go over that, but since 1900 the two trains in connection with the Rock Island have been put in service, have they not?

A. Yes.

Q. And in addition to that you had the through train between New Orleans and San Francisco and the New Orleans-San Antonio and El Paso and San Francisco service?

A. That is correct.

Q. What was the number of through passenger trains on the line between San Francisco and Ogden in 1900?

A. There were three through trains in each direction, daily.

Q. How many are there now?

A. Four.

Q. Has the equipment of those trains been improved in character since 1900?

A. It has.

Q. In what respects?

A. Chiefly by the addition of dining cars and observation cars and the installation of electric lights.

Mr. SEVERANCE. Which trains are these?

Mr. DUNNE. These are the Ogden trains.

Q. What was the schedule of the Overland Limited, westbound, in 1900?

A. I have not the figures.

Q. Haven't you a memorandum? I do not expect you to carry these in your memory.

A. Yes, I have it.

Q. What was the schedule of the Overland Limited, westbound, in 1900?

A. 28 hours and 30 minutes.

Q. From Ogden to San Francisco?

A. Yes.

Q. What is the schedule of the Overland Limited, westbound, Ogden to San Francisco at the present time?

A. 28 hours and 18 minutes.

7459 Q. What was the schedule of the eastbound Overland Limited in 1900, San Francisco to Ogden?

A. 28 hours and 45 minutes.

Q. And what is it at the present time?

A. 26 hours and 30 minutes.

Q. In 1900 how many through daily trains did you have between San Francisco and Portland?

A. Two.

Q. Can you give us the consist of that equipment?

A. One of the trains was equipped with mail car, baggage car, coaches, tourist cars, and sleepers; the other had similar equipment, and in addition had a dining car.

Q. What was the schedule of those through trains in each direction between San Francisco and Portland?

A. It was about 36 hours in each direction.

Q. Were those trains equipped with dining cars?

A. One of them, I say, was equipped with a dining car; the other was not.

Q. At the present time how many daily trains have you in each direction between San Francisco and Portland?

A. Three.

Q. To what extent are those trains equipped with dining cars?

A. They are all equipped with diners.

Q. Does any one of those trains carry an observation car?

A. One of them has an observation car.

Q. Referring back to those two trains in 1900, did either of those trains have an observation car?

A. They did not.

Q. Is this observation-car train electric lighted throughout?

A. Yes.

Q. What is its schedule?

A. I think it is 27 hours and 30 minutes.

Q. Have you a memorandum in respect to freight service?

A. I have.

7460 Q. Of the average time of through freight, New York to San Francisco, by the Sunset route in 1900?

A. I have.

Q. What was that?

A. 15 days and 7 hours.

Q. What was it in 1909?

A. 15 days and 5 hours.

Q. What is that based upon?

A. The first figure is based upon the movement of 15 cargoes of various vessels that moved during different months, February to October of 1900, and the second figure is based on the movement of all cargoes which moved during the months of May, June, and July, 1909.

Q. With respect to the 15 cargoes during the months of February to October, 1900, how were those cargoes selected? What was the modus operandi in making the calculation, in reaching the result?

A. The records of my own office covering that period were destroyed; I, therefore, had recourse to the records of our agent at San Francisco, which showed the departure of the cargoes at New York and the arrival of the freight in cars at San Francisco.

Q. Those records have been saved?

A. For the former period his record had been saved; for the latter period my own records were available and were used.

Q. You said 15 cargoes, just as you mentioned in another connection 168 cars. In what way did you come to select 15 cargoes, or did you select 15 particular cargoes?

A. We did not. I simply asked the agent to give me his record of a sufficient number of cars to indicate the performance in exactly the same manner that I asked for the record of 168 cars by the Ogden line.

Q. Is eastbound freight manifested from Los Angeles?

A. Yes.

Q. I mean coming by the Sunset route?

A. Yes.

7461 Q. What do you mean by that—that it is manifested? We have heard that word several times.

A. We have a system known as the manifest system, whereby we follow the movement of through freight on various lines. It is reported by wire, time of departure from initial point, time of passing various designated points en route, and the time of arrival at destination; that includes the arrival of the trains at Galveston, the departure of the ships from that point, and their arrival at New York.

Q. To what extent are through shipments by the Sunset Line covered by the manifest system?

A. Practically all commodities.

Q. Was that system in use prior to 1901 or 1902?

A. Yes; but in modified form.

Q. To what extent has it been changed or improved, if at all?

A. I made a trip throughout the East in 1901 looking into similar systems on various other lines, and revised ours as the result, in an endeavor to embody the desirable features of the other systems, and in this way we think we improved somewhat upon our former methods. The result of this in the movement of the freight has been to secure more regular movement.

Q. Will you state again, with a little more particularity, the respects in which you improved the manifest of this freight and enhanced the regularity of the movement?

A. The improvement in the system consisted principally of changes in the blank forms used in connection with it. We also multiplied the number of points at which the passing of cars is reported; we also have distinctive forms for reporting where cars are set out for any reason, so that they may be picked up as early as possible and avoid any delay in that way. It is difficult to explain very much in detail.

Q. What was the object of that?

A. To improve the service.

7462 Q. In what respect?

A. Particularly with respect to regularity. We did not claim that it would accelerate the movement of cars.

Q. Your point was to improve the regularity of the service?

A. Yes.

Q. I have asked you about the average time of through freight New York to San Francisco in 1900. Have you any data from which

to determine the average time made from Los Angeles to New York in 1900?

A. I can't give you that information for 1900 as we have not the records.

Q. Have you any figures for the present time?

A. At the present time the average time is about 15 days—a trifle less.

Q. What is that based on?

A. That figure is based on the movement of 200 cars.

Q. In what way was that result reached?

A. We took the actual time consumed by 200 cars from the time of their departure from Los Angeles until arrival of the steamer at the dock in New York.

Q. Was there any element of special selection as to the cars that were used as data?

A. There was not.

Q. In 1900 what was the route of the Sunset Limited between San Francisco and Los Angeles—that part of the road between San Francisco and Los Angeles?

A. It moved by what we call the Valley Line, that is, by the San Joaquin Valley and Bakersfield.

Q. Where are the Tehachapes?

A. The Tehachape mountain is on the line between Bakersfield and Los Angeles.

Q. Are those mountains crossed by the Valley Line in going to and from San Francisco and Los Angeles?

A. They are, by way of Bakersfield.

7463 Q. Was any other line of the Sunset Line open between San Francisco and Los Angeles after 1900?

A. Yes.

Q. What was that line?

A. What is known as the Coast Line.

Q. When was that opened?

A. It was opened in the fall of 1901.

Q. Will you describe briefly the Coast Line as compared with the Valley Line? In the first place, tell us what the Coast Line is, physically.

A. It is the line running down the coast from San Francisco to Los Angeles by way of Santa Barbara, through the Santa Clara and Salinas valleys, where it is practically a level line. There is then a very short but rather steep grade from Santa Margarita, and from there to Los Angeles it is a line of very much more favorable grades than the Tehachape Line.

Q. As a line for the purpose of moving freight it is a line of much less resistance than the Valley Line, is it not?

A. Very much less.

Q. Then, the use of the Coast Line improved the freight service by the Sunset?

A. Very much.

Q. What was the effect of that with respect to handling freight, as to the amount of the freight and the regularity of the movement,—the installation of the Coast Line as a component line of the Sunset route?

A. It enables us to handle freight in larger lots, and to that extent promotes the regularity of the service; it also avoids troublesome water transfer that we formerly had from Oakland to San Francisco.

Q. In what way does it enable you to handle freight in larger lots?

A. On account of the more favorable grade.

Q. And with respect to the avoidance of the water transfer
7464 from Oakland to San Francisco, let me ask you how does freight moving Sunset through California by the Valley Line reach San Francisco?

A. It reaches San Francisco by water transfer from Oakland.

Q. You mean that the cars must be ferried across San Francisco Bay?

A. The cars are ferried across San Francisco Bay.

Q. How does the freight moving Sunset through California by the coast route enter San Francisco?

A. It enters the city direct by rail.

Q. There is no water transfer?

A. There is no water transfer.

Q. By the way, some reference has been made to Dumbarton cut-off. Where is that?

A. That is about 20 miles south from San Francisco, across the arm of the Bay.

Q. What part will the Dumbarton cut-off play in the handling of Sunset freight, that comes up through the Valley?

A. It would not be the purpose to handle Sunset freight up through the valley. That would continue to move by the Coast Line.

Q. Then, what freight would move over the Dumbarton cut-off?

A. We expect to move a good deal of freight for local points in the San Joaquin Valley and also freight in the direction of Ogden and Portland.

Q. Yes, but suppose that freight should move Sunset through the San Joaquin Valley, could it be handled into San Francisco over the Dumbarton cut-off?

A. It could.

Q. That is what I had in mind when I asked that question.

A. If for any reason it moved that way, it could be.

Q. You have spoken of the manifest system as being in use in the improved form on the Sunset Route. To what extent has that system been aplied on the Ogden Line?

7465 A. We have a manifest system also in use on the Ogden Line.

Q. When was that put in use on the Ogden Line?

A. The manifest system was first put in use on the Ogden Line, as I recall, about 1896, but in 1904 it was modified somewhat, so that the form is not precisely the same as on on the Sunset Line.

Q. Wasn't it somewhat earlier than 1904? With respect now to the San Francisco-Ogden Line. I do not mean the line all the way to Omaha. Have you a memorandum of the date?

A. With respect to the line from Ogden to San Francisco it was put in effect at the same time that it was on the Sunset Line—in 1902.

Q. That would be 1902?

A. Yes.

Q. You say it was put in effect on the Ogden Line in 1896? What distinction do you make between the manifest system of 1896 and the manifest system of 1902?

A. I described the difference a few moments ago as nearly as it is possible to do so. As I stated, it consisted principally of some changes in blank forms.

Q. Oh, I get your meaning. I misunderstood you. The same form of improved manifest system was applied in 1902 upon the Ogden Line as upon the Sunset Line?

A. Precisely.

Q. How was it with respect to the extension of the manifest system as far as Omaha? Was it extended over the whole line, San Francisco to Omaha, and have you any memorandum as to the time?

A. Yes.

Q. When was that?

A. In the fall of 1904.

Q. Are you able to say from any data that you have what the average time is which would be consumed by a representative number of cars moving through a specified period in 1909 Omaha to San Francisco?

A. We found it to be 9 days and 3 hours for the representative number of cars that moved in May, June and July, 1909.

7466 Q. How did you arrive at that result?

A. By merely taking from our records the actual movement out.

Q. Have you the detail here?

A. I have.

Q. You have the detail for these various statements that you made, if Mr. Severance cares to see it?

A. I have it here in rough form.

Q. State briefly the way in which you arrived at this result.

A. I simply instructed the clerk to take off the record of 100 or more cars and give the time made by them from Omaha to San Francisco. This is the figure that is based upon the movement of 168 cars, as described a little while ago.

Q. You have already explained how those cars were selected?

A. I think so.

Cross-examined by Mr. SEVERANCE.

Q. You have been superintendent of transportation, as I understand you, since 1895?

A. Yes, sir.

Q. So you have been very familiar with the movement of traffic over the Southern Pacific system since that time?

A. Somewhat.

Q. All under your direction?

A. In a very general way.

Q. That is what I mean. You were speaking about the passenger service by the El Paso Route from New Orleans to San Francisco in 1900 and now. What was the time of the Sunset Limited in 1900?

A. From New Orleans to San Francisco?

Q. Yes.

A. I have not the figure, I think.

Mr. DUNNE. I think we shall have a passenger man here on that.

Mr. SEVERANCE. I think Mr. Fay gave it, but I want to be sure.

7467 Mr. DUNNE. I think we will get that from one of the passenger men.

WITNESS. I think you will, undoubtedly; and I think Mr. Fay also gave it.

Q. In regard to the movement of the Sunset Limited?

A. Yes.

Q. In which he said that the eastbound time was 74 hours and 20 minutes and the westbound was 72 hours?

A. If he gave those figures, I might have them.

Q. Does that correspond with your recollection?

A. I think he gave those figures, yes.

Q. I say does that correspond with your recollection?

A. I would not depend upon memory for such figures, but I have no doubt they are correct.

Q. At the present time what is the time consumed by your best train between New Orleans and San Francisco, going west, and how much time between San Francisco and New Orleans going east?

A. The time of the westbound through train at present is 97 hours and 45 minutes; the time of the eastbound train is 96 hours and 45 minutes.

Q. That is practically a day slower than it was in 1900, isn't it?

A. Yes—not slower than this train was, but slower than the Sunset Limited was.

Q. It is really more than 24 hours slower, isn't it?

A. It is the difference between the two—the difference between 72 and 96:45.

Q. That means an extra night out in the sleeping car, doesn't it?

A. This is a daily train; the other was not.

Mr. SEVERANCE. Your answer is not responsive. I will ask the reporter to read the question.

7468. The question was read by the reporter.

A. I presume it does. That would depend on the time of day they left and the time that they arrived at the end of the journey.

Q. Can you see any hour in which they could start or any hour in which they could finish where they would not be an extra night out if the difference in time is 24 hours and 45 minutes? If so, just state what time you would start to avoid that extra night.

A. I think that statement is correct.

Q. In giving this time from New Orleans to San Francisco you are giving the time of the through sleepers, are you not? There was some evidence here that the train stopped for three or four hours in Los Angeles.

A. I am giving the running time of the train.

Q. As between the termini?

A. Yes.

Q. Between New Orleans and San Francisco?

A. Yes.

Q. Now, that train runs over the Coast Line, that is, the line that runs up through Santa Barbara, in that way?

A. Yes.

Q. You stated in answer to Mr. Dunne that moving traffic over that line aided greatly in the regularity of movement. Isn't it a fact that that line has been washed out a good deal of the time so you could not run traffic over it at all?

A. During what period?

Q. During the last few years, since it was opened.

A. I don't know that that is especially true of that line; we have such trouble on all lines.

Q. You do not think it is especially true of the Coast Line—that you have wash-outs?

A. I think I said it was not true that we did not have wash-
7469 outs, but that wash-outs were of no more frequent occurrence, nor involved more behind movement of traffic, by that line than by some other.

Q. You say they do not?

A. That was my answer to your question—not that they did not have wash-outs on that line.

Q. Didn't the wash-outs on that line very much exceed those on the San Joaquin Valley Line?

A. It will be impossible to answer that question, I think.

Q. You don't know?

A. I don't know.

Q. Do you know anything about there having been wash-outs on that line?

A. I know there have been.

Q. Do you know of times when the line was not entirely washed out that you have had a great deal of trouble in moving traffic on time on account of water?

A. Yes, sir.

Q. So that sometimes your passenger trains are two or three days in getting from San Francisco to Los Angeles when they ought to run down between morning and evening?

A. I recall cases where we have started a train down by that line and it has encountered trouble from a wash-out after it started, which could not be foreseen, and the train was brought back and sent down the other way, and perhaps in that way consumed two days in reaching Los Angeles.

Q. Don't you know of times when the same train has gone out of San Francisco and been two or three days, finally getting into Los Angeles over the Coast Line, on account of wash-outs?

A. I would not say that I do know of cases where the trains have been two or three days.

Q. You would not dispute that?

A. No.

Q. You would not dispute the fact that the train leaving San Francisco on Thursday morning for Los Angeles, due in there Thursday evening, arrived after midnight Saturday evening, on
7470 account of floods?

A. No.

Q. Do you know much about the floods on that line? It is part of your duty to be posted about the movement of trains, isn't it?

A. Yes.

Q. In a general way, as you say.

A. Oh, yes.

Q. As a matter of fact isn't it true that the regularity of movement of freight on the Coast Line has been much interfered with during the winter seasons by floods—every year, practically?

A. Yes; and the same is true of all other lines.

Q. It is true of the Coast Line, isn't it?

A. Yes.

Q. It is not true, is it, of the San Joaquin Valley Line?

A. If you mean by that, has there been trouble from wash-outs on the San Joaquin Valley Line, I will say there has been a great deal.

Q. Has there been anywhere near as much as on the Coast Line?

A. During what period?

Q. Since the Coast Line was opened. I mean on an average.

A. It will be impossible for me to answer that.

Q. Do you mean to say you cannot give an opinion on that question, as to whether you had more trouble on the Coast Line than on the San Joaquin Valley Line? You have no opinion on that question?

A. The Coast Line was first opened in the fall of 1900 and was closed entirely for a short time after that on account of wash-outs and other troubles, but the time I am speaking of is since it was permanently opened, which was in the fall of 1901.

Q. Yes, that is the time I am asking you about, between the fall of
1901 and the present time. Do you mean to say that you have no opinion as to whether you suffered more from washouts on
7471 that line than on the San Joaquin Valley Line?

A. I think it is possible we have suffered more from the fact that the train service has been much more frequent on that line, there has been a greater number of trains affected.

Q. Reduce it to one train. Haven't you per train had much more trouble and more delay, very much more than you have on the San Joaquin Valley?

A. I cannot answer that question.

Q. You don't know?

A. I don't know.

Q. I mean trouble from wash-outs?

A. I understand.

Q. I don't mean general wrecks. What is the scheduled time of the freight train that carries New York traffic between El Paso and San Francisco?

A. The schedule time of the train, I think, is about 5 days. I haven't the figures here.

Q. Are they accessible here in town?

A. Yes, I think I could get them. I might explain that the great bulk of our freight by that line is handled on extra trains, without reference to the schedule time.

Q. So that the schedule time would not show much?

A. It would not indicate very closely the actual movement of freight.

Q. But you can get that information?

A. Yes; it is merely a matter of referring to time tables which I have not with me.

Q. But they can be procured in town?

A. They can be procured in town, yes.

Q. So you can have them after luncheon?

A. I think so.

Q. You will be kind enough to do that?

A. Yes, sir.

Q. How is it about the movement of freight from Galveston to El Paso? Is that also moved irrespective of schedule?

A. I have no jurisdiction over that part of the line; I don't know.

7472. Q. Have you no knowledge about that?

A. No; I could not say as to whether they handle their freight in extras or run them as regular scheduled trains.

Q. Now, you spoke of a new Rock Island connection by way of El Paso, that was put on in January, 1910. What kind of a train is that?

A. You mean what does it consist of?

Q. Yes, what is the consist of that train from El Paso to San Francisco, or is it a through train from Chicago like the Golden State?

A. The consist of the train is a mail car, baggage car, chair car, diner, sleeper, and tourist cars. That is to say, there is a mail car one way. The train in the other direction does not have a mail car.

Q. Where does that sleeper start from—Chicago?

A. I am not entirely familiar with that. There are two sleepers on the train. I think one of them originates at Chicago and one at Kansas City.

Q. They are brought in anyway by the Rock Island?

A. Yes.

Q. From at least as far as Kansas City?

A. I believe so.

Q. There would be no point at which they would naturally start west of Kansas City, is there, if they are brought in by the Rock Island?

A. I think that is right.

Q. You say there are tourist cars on that train also?

A. Yes, sir.

Q. Does the Golden State Limited carry tourist cars?

A. It does during the summer months.

Q. And where do they come from—Chicago?

A. I can't say whether that car originates at Chicago or some other point.

Q. What about the tourist cars on this new train, that was put on this winter, in January? Where do they originate?

A. I can not say.

7473 Q. Who knows about that?

A. The passenger people will be able to tell that.

Q. Some of the passenger people that are here?

A. Yes.

Q. Do they haul more than one tourist car a day?

A. I think there are two daily.

Q. And to what point do those tourist cars run—San Francisco?

A. The terminus of that train is Los Angeles.

Q. Oh, they go to Los Angeles?

A. Yes.

Q. Does the Golden State Limited carry any tourist car to San Francisco?

A. The terminus of that car is also Los Angeles, I think, when it runs during the summer.

Q. The passenger people will know about that?

A. Yes.

Q. Are you able to state the terminus of the tourist car on the New Orleans train?

A. Westbound?

Q. Yes.

A. I think it runs to San Francisco. But those are matters that I am not required to know, and I am not especially familiar with them.

Q. The passenger people will know about that, too?

A. The passenger people will know.

Q. A few moments ago, in answer to Mr. Dunne, you gave the time of the Overland Limited from Ogden to San Francisco, in 1900, and its present time. When did that present time become effective?

A. I think those figures represented the schedule the first of the present year.

Q. Are you sure.

A. Possibly in December.

Q. Just look at your detail and see?

A. I haven't the detail here.

Q. Don't you know it is a fact that the Overland Limited from Omaha to San Francisco was slower in January of this year, 1910, took longer to move the train—that the schedule was longer
7474 from Omaha to San Francisco in January, 1910, than it was in December, 1900?

A. I have not testified as to Omaha; my figures related to Ogden.

Q. I know, but that train came from Omaha, didn't it?

A. Yes. I have had no occasion to know the time on the line east of Ogden, and do not know it.

Q. Is there anybody who would know about that?

A. I think the passenger people will know.

Q. They will know about that?

A. I think so.

Q. What did you say is the present time of the Overland from Ogden to San Francisco?

A. 28 hours and 18 minutes.

Q. And from San Francisco to Ogden is how much?

A. 26 hours and 30 minutes.

Q. You know nothing of the movement beyond there?

A. I don't know the actual time, no.

Q. And what did you say was the time from Ogden to San Francisco in 1900?

A. 28 hours and 18 minutes.

Q. And from San Francisco to Ogden?

A. 28 hours and 45 minutes.

Q. You don't know when this new time schedule was put in effect—the 28:18 and the 26:30? You don't know when that became effective, as I understand it?

A. I don't recall the date, no.

Q. Have you another train running between Ogden and San Francisco called the Mail Train?

A. Yes.

Q. The China and Japan Fast Mail. That is what you call it on the timetable is it?

A. Yes, I believe we have some such title for it. I call them Nos. 9 and 10.

Q. Are you aware that that train is 6 hours and 33 minutes slower, or was a month ago (I don't know what it is now) than the
7475 mail and express train in December, 1900, between Omaha and San Francisco?

A. I have had no occasion to compare the time and did not know that.

Q. The passenger people know about that, I suppose?

A. Possibly.

Q. At any rate, it is possible to get the information?

(A recess was here taken until 2 o'clock P. M., at which time the witness was recalled and the cross-examination resumed, as follows, by Mr. Severance.)

Q. Mr. Richardson, will you be good enough to let me see the detail of those 168 cars?

A. It is in very rough form. (Handing paper to Mr. Severance.)

Q. Are these cars all westbound?

A. All westbound.

Q. What did I understand you to say your instructions were to your subordinate about picking out this information?

A. I asked him to give me the running time of about 100 cars from Omaha to San Francisco.

Q. And he gave you 168?

A. He gave me 168, I believe.

Q. Did he give you any reason for handing you 168 when you asked him for 100?

A. I probably said about 100, and as he is a zealous young man and anxious to do his whole duty he went over the number a little.

Q. Did I understand you to say these cars were for the three months of May, June and July last?

A. I think those were the months. I think the heading shows that, does it not?

Mr. DUNNE. The date is at the top of page 7.

WITNESS. Yes.

Q. What do you find?

A. I say yes, they moved in May, June and July, 1909.

7476 Q. And how he happened to pick out those particular cars you don't know?

A. I do not.

Q. I notice he scratched out a couple here. One of those started from Council Bluffs on the 21st day of June and arrived in San Francisco at 8 P. M. on the 2nd of July, something over 11 days; another one started on the 21st of June, at 4 o'clock in the morning, and arrived in San Francisco at 6 P. M. on the 30th of June, between 9 and 10 days. You don't know why those were scratched out, do you?

A. I do not.

Q. They are the last two. I observe also that he took a lot of cars, the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, and one car the 8th, of May, another one the 7th; another one the 8th and another the 11th, and stopped—no more that month. Do you know why he did not take any more that month?

A. I do not.

Q. Do you know whether the cars he took were all the cars moving on the days that they bear date, that is, the 1st, 2nd, 3rd, and so on, where there are movements?

A. I could only give an opinion as to that if I knew the number of cars shown on any particular day.

Q. I can tell you the number. We will take the 1st day of May; that is the first one. There seemed to be 10 cars on May 1st.

A. Under this manifest system that I have described, there are a certain number of cars on each manifest. He has taken these records from those manifests, and he would naturally take whatever cars appeared on a manifest. It may run anywhere from 1 to 20.

Q. I notice that here are two cars leaving Council Bluffs at 8:30 P. M. on the 1st day of May. One of them was 11 days and 8 hours getting to San Francisco, and the other was 8 days and 18 hours. How do you account for such irregularity as that?

7477 A. That is quite natural, and no doubt the result of some accident to the car that was longest on the road. It may have met with some mishap and perhaps was set out for repair.

Q. Then, your freight does not move with very great regularity on any schedule?

A. I should say that hardly proves that.

Q. Here are four cars got through in 8 days and 20 hours, one in 9 days and 16 hours, one in 9 days and 19 hours (that is practically a day longer than the 8 days and 20 hours) and one in 9 days and 13 hours; one in 7 days and 11 hours; one in 11 days and 8 hours, and another in 8 days and 18 hours. Very great irregularity in those, wasn't there?

A. There was some irregularity.

Q. There is an extreme difference of four days lacking three hours. You would call that quite an irregularity, wouldn't you?

A. Including the car perhaps that was set out for repairs. I don't think there is anything unusual about that showing.

Q. Excluding it, there is a difference of 2 days and 2 hours.

A. I don't think that is anything extraordinary considering the length of the run.

Q. You don't happen to know why he stopped?

A. I do not.

Q. In the month of June he seems to have started with the 1st and run up several cars a day, outside of 1 day, I think, in this list; no cars on the 4th, but several cars other days up to the 8th; then he stops, and takes 1 car on the 12th and 1 on the 19th; no more that month. You don't happen to know why that was?

A. Probably for the reason I stated—that he took whatever was on certain manifests.

Q. Would a car moving on the 8th be on the same manifest

7478 as one moving the 19th?

A. It would not. It might be a part of the way, I will say. If the first car had been set out or had met with delay from any cause, the second one might have been added to it. Ordinarily it would not.

Q. It could not have been, because the last car, on the 8th, made the run in 8 days and 19 hours, and that would arrive before the 19th car started.

A. Very well.

Q. In July he seems also to have taken sundry cars—on the 1st, 3rd, 4th, 5th, 6th—one or two on the 6th, some on the 8th, 11th, 13th, 15th, and then stops. I suppose you are in the same state of ignorance as to the reason for that as you are about the others?

A. I am.

Q. Have you looked up that time-table since?

A. I understood you to ask for the schedule of through freight from El Paso to San Francisco.

Q. Yes.

The witness hands a memorandum to Mr. Severance.

Q. Is this correct—109 hours and 15 minutes?

A. 109 hours and 15 minutes.

Q. You say very little of the business moves on that schedule, that it mostly moves extra—the New York business I mean.

A. I said very little of it moved in regular numbered trains; that we move the most of it in extra trains.

Q. Does any local traffic move in this train?

A. Oh yes, more or less.

Q. Now, you were examined this morning with reference to the movement between San Francisco and Portland. When was the third passenger train put on between San Francisco and Portland?

7479 A. I think in June, 1909. I am saying that from memory. I think I am right.

Q. And that train, I understand you, makes the trip in 27 hours?

A. About 27 hours.

Q. About 9 hours shorter than the old time?

A. Yes.

Q. And up to last June it had been about stationary for a good many years, hadn't it,—36 hours?

A. Yes.

Q. That train ran pretty full, had pretty good business?

A. The new train?

Q. Yes.

A. I understand it does.

Q. Does the other train still do a good business?

A. Very good.

Q. So that you have passengers enough to pay for running these trains?

A. We think we have.

Q. I do not ask you for the figures, but in general the traffic warranted putting on a third train?

A. It seemed to.

Q. And you put on the fast train?

A. Yes.

Q. What is the distance between Portland and San Francisco?

A. About 750 miles.

Q. What is the time of the fruit trains from Los Angeles to Ogden, that run in connection with the 80-hour fruit train that Mr. Mohler testified about?

A. I have that segregated from Los Angeles to Sparks and from Sparks to Ogden. I have no jurisdiction east of Sparks. The schedule from Los Angeles to Sparks is 50 hours.

Q. And from Sparks to Ogden?

A. From Sparks to Ogden 40 hours.

Q. That makes 90 hours from Los Angeles to Ogden; adding the 80 would make 170 hours to Omaha, or 7 days and 2 hours.

7480 That is right, isn't it?

A. Yes.

Q. Not allowing anything for the time of making up the train at Ogden. Do you know what the time was over the San Pedro road from Los Angeles to Ogden?

A. I do not.

Q. Is there anybody here that would know about that?

A. I doubt it.

Q. Do you happen to know what the time is from Omaha to Chicago?

A. 26 hours.

Q. That makes, then, without allowing anything for the transfers at Omaha or at Ogden, one line to the other, 8 days and 4 hours?

A. Yes.

Q. Does that 8 days and 4 hours include the transfers, or don't you know?

A. Include what?

Q. The transfer from the Union Pacific to the Southern Pacific at Ogden, and from the Union Pacific to the Northwestern at Omaha.

A. It includes it.

Q. So, the time is 8 days and 4 hours.

A. That is it.

Q. Mr. Mohler said that time was made by agreement. Who were the parties to the agreement; do you know?

A. Not very clearly. The traffic people could best answer that question.

Q. Which traffic man? so I will know whom to ask about it. Mr. Luce?

A. I presume Mr. Luce could answer it.

Q. Previous to this agreement, which Mr. Mohler says has been in effect for some 6 or 8 months, as he understood it, what was your time to Chicago?

A. As I recall, we have made substantially the same schedule for several seasons past.

Mr. DUNNE. Mr. Mohler said that was by agreement of the shippers. I think it is fair to you that that should be stated.

7481 It was not stated in your question.

Mr. SEVERANCE. But Mr. Richardson was here and heard the testimony.

WITNESS. Yes, I understand.

Mr. SEVERANCE. He knows what I am talking about.

Mr. DUNNE. I think in stating Mr. Mohler's testimony it would be just as well to state it fully, as he gave it. I know you didn't mean to omit it.

Mr. SEVERANCE. I certainly did not mean to bring out by Mr. Richardson agreements between the Southern Pacific and the Union Pacific because they are too clearly established; that would be unnecessary. I am only speaking about the agreement with the shippers, that Mr. Mohler spoke about. You understand?

WITNESS. I understand, yes sir.

Q. Can you tell what the time was before this agreement was made that Mr. Mohler spoke of?

A. Assuming that Mr. Mohler's answer was that this agreement had existed for some 6 or 8 months, as you just stated——

Q. Isn't that the way you understood him?

A. I wouldn't say as to that. But if that was the statement, then my answer is that to the best of my recollection the schedule has been substantially the same as this for several seasons past.

Q. It has been about 8 days, or a little more, for several years, hasn't it?

A. I think so.

Q. So that if there was an agreement made with the shippers, as indicated, or rumored as Mr. Mohler thought, it did not result in shortening the time?

A. Not materially, I think, the shippers being satisfied with the schedule.

7482 Q. Do you remember a time for a while that the San Pedro in connection with the Burlington and the Rio Grande laid fruit down in Chicago in six and six and a half days from Los Angeles?

A. I remember hearing more or less talk about that, but I have no definite knowledge regarding it.

Q. You didn't know about that?

A. Not definitely.

Q. Except you heard of it?

A. That is all.

Q. From what source did you hear of it?

A. Various sources.

Q. They stopped very soon, didn't they, and never resumed it?

A. I don't know that the schedule ever existed or that it ever was made. I say I have heard rumors of such a thing.

Q. You have heard no rumor that such is the case recently, have you?

A. The San Pedro is not in operation now.

Q. I say within the last two or three years. It has been in operation during that time, hasn't it?

Mr. DUNNE. I don't think you ought to ask the witness if he has heard rumors.

Mr. SEVERANCE. Very well; I will withdraw it if you object to it.

Q. What is the time of the fruit trains from Los Angeles to Chicago by way of El Paso?

A. I have that only up to El Paso. That covers the line only from Colton. Our fruit cars are assembled at Colton.

Q. How far is Colton out of Los Angeles?

A. About 60 miles.

Q. That is pretty near the centre of the fruit district, isn't it?

A. Yes. The time from Colton to El Paso is 65 hours.

Q. What is the distance?

A. 755 miles.

Q. About 12 miles per hour?

A. A little less.

7483 Q. Yes, very little; nearly 12 miles per hour.

A. Yes.

Q. With what roads at El Paso do you exchange that business, or to what road do you deliver that business?

A. The Rock Island and the Texas Pacific.

Q. And you do not happen to know what their time is through to Chicago?

A. I haven't the figure, no.

Q. Or to the Missouri River?

A. No.

Q. You testified that the average time of freight from New York to San Francisco based on the movement of 200 cars, as I understood your testimony, was about 15 days.

A. Between what points?

Q. New York and San Francisco by the Sunset.

A. I think the 200 car figure represented the time on eastbound freight from Los Angeles to New York; that is my recollection.

Q. Have you the detail of that?

A. No, I have not the detail of that.

Mr. DUNNE. He said a little less than 15 days Los Angeles to New York.

Mr. SEVERANCE. Oh yes; I had the wrong sheet here.

Q. You stated that the average time from New York to San Francisco, February to October, 1900, by the Sunset Route, was 15 days and 7 hours?

A. I believe so.

Q. And for May, June and July, 1909, 15 days and 5 hours?

A. That is right.

Q. Have you with you the details from which that was worked out?

A. Not in very great detail for the first period, for the reason, as I stated, that my own records were destroyed and I was obliged

7484 to get this from the agent at San Francisco. He has given me merely an outline. (Handing paper to Mr. Severance.)

Q. In these figures for the year 1900 he does not give the hour and the day that the steamers left New York, nor does he give the hour and the day that they arrived in San Francisco, does he?

A. I stated that he hadn't it in great detail, that he had it merely in outline.

Q. But you have given a result which is divided into hours. You testified here that the time in 1900 was 15 days and 7 hours. It is impossible to arrive at that accurately in that way and give the odd hours without knowing the hour leaving New York and the hour arriving at San Francisco, isn't it?

A. May I see that a minute, please?

Q. It only shows the day it left New York and the day it arrived in San Francisco. It might have left at night and arrived in the morning, or vice versa.

A. There does appear to be a discrepancy there. I am willing to leave off the 5 hours.

Q. You might put on another day, that would be just as well.

A. I can't account for that discrepancy, Mr. Severance. I don't know why the hours are not shown there, I am sure. That is the only information I have.

Q. He added the number of cars together with the number of days and divided it up.

A. That is quite possible.

Q. I think that is the way he did it, but that is not an accurate statement, is it, so as to show the fractions of a day?

A. Perhaps not extremely accurate.

Q. It is not at all accurate is it?

A. Well, I would not admit that.

7485 Q. Then, I will ask you this question, which I think you will agree to. The data upon which these figures 15 days and 7 hours from New York to San Francisco, in 1900, were made up, simply show the day of the month on which the steamers left New York and the day of the month on which the respective cars of commodities coming out of those steamers arrived in San Francisco?

A. That is right.

Q. It does not show the hour of the day leaving New York or arriving in San Francisco?

A. It appears it does not.

Q. I notice on the first page of the movement for 1909, the detail, "Steamer El Mar, New York, February 10, 1909;" that is, left New York February 10th; 16 cars out of that steamer arrived on the 24th, which would be 14 days; 2 cars arrived on the 25th, which would be 15 days, and underneath you have average time 14 days. How do you get an average of 14 days, two of them arriving in 15 days and the other in 14 days?

A. I think this is the detail for that statement, that that statement is made up from, which gives the actual time for all the cargoes. (Handing paper to Mr. Severance.)

Q. This is the name of the steamer under this column? (pointing on paper.)

A. The names are in that column. That is the statement that relates to May, June and July, 1909.

Q. How is that?

A. That is the statement upon which is based the figure of 15 days and 5 hours—not the one you had.

Mr. DUNNE. You are now referring to the detail you have just handed counsel?

WITNESS. Yes.

Q. This is not the detail of the one you testified from?

7486 A. Oh yes, but this one is not, apparently, inasmuch as it does not cover the period of these figures.

Q. Let us get it straightened out. These figures that you handed me first, beginning with the steamer El Nort, New York, March 1, 1900,—that is the detail of the movement which you said averaged 15 days and 7 hours in 1900, isn't it?

A. That is right.

Q. Now, I asked you for the detail of the May, June and July movement for 1909. Is that what you have just handed me?

A. Yes, that is it.

Q. Will you kindly point out to me where the hour of the arrival in San Francisco is shown on that detail?

A. The hour of arrival in San Francisco is not shown—the hour of the day.

Q. Then, you can not figure out the fraction of a day if you only have the hour of sailing from New York and do not have the hour of arrival? It may be that your statement here that it averages 15 days and 5 hours is right, or it may be very wrong.

A. It could not be very far wrong.

Q. It could be several hours wrong, couldn't it?

A. Yes.

Q. Will you kindly examine the first page of that schedule and tell me whether it does appear on it that out of a total of 34 carloads, 27 of them arrived in San Francisco behind time, as shown by the schedule time on the detail?

A. You mean consumed in excess of the 15 days?

Q. What you call schedule time there. There is one column headed "Schedule time" and another headed "Average time."

A. Yes, that appears to be about right.

Q. As I understand, this detail is supposed to show the en-

7487 tire movement of Los Angeles and San Francisco freight from New York during the three months.

A. I think it is San Francisco freight only. I am not sure.

Q. Well, there is one heading here "For Los Angeles."

A. Then, it includes Los Angeles cars.

Q. Well, am I right about that? Just look at it and see.

A. That is the date of passing Los Angeles.

Q. This is only San Francisco freight?

A. I think that is only San Francisco freight.

Q. That column under "For L. A." shows the date that it passed through Los Angeles? Is that what it is supposed to show, or what is it?

A. There was freight evidently for both points—these cars for Los Angeles, and these for San Francisco. Here is the time made by the Los Angeles cars, and here is the time made by the San Francisco cars. (Indicating on the paper.)

Q. No, they were all bound for Los Angeles.

A. There was evidently freight for both places in the same car.

Q. Oh, I see.

A. Not in the same car, but in the same cargo.

Q. This represents a complete cargo?

A. Yes.

Q. Each item?

A. Yes.

Q. Not a separate car.

A. I am not prepared to say definitely just what that is intended to be, but I should say it was cars for Los Angeles and cars for San Francisco.

Q. If that is the case, then, this is not a detail at all, is it, so far as the movement of cars is concerned; this is nothing but a statement of the name of the steamer, the day it leaves New York, and
7488 what your clerk has figured out in some way as the average time that the commodities transported in that steamer got to San Francisco, without any statement as to different trains or cars in which it moved?

A. There are no trains or cars, no.

Q. And it appears by your other schedule here, that we examined a few minutes ago, that different parts of the same cargo moved at different rates of speed, doesn't it?

A. Yes, at times.

Q. Arrived different times?

A. Yes.

Q. Then, this is not the ultimate detail at all, is it?

A. This is not the ultimate detail.

Q. Have you the ultimate detail with you?

A. I have not.

Q. And you did not make it up yourself?

A. I did not.

Q. What is the difference, if any, in the distance from El Paso to San Francisco by way of the Tehachape Pass and by way of Los Angeles and the Coast Line?

A. Very little; comparatively no difference.

Q. They are practically the same, are they?

A. A difference of about 2 miles only.

Q. You stated in answer to Mr. Dunne that by handling freight over the Coast Line you could move it in larger trains, larger lots, and thereby get more regularity of movement?

A. Yes.

Q. You could also move it more economically by moving it in larger lots?

A. Undoubtedly.

Q. When was the Dumbarton cut-off built, concerning which you were interrogated this morning?

A. It is now being built.

Q. When was it commenced?

A. I think about 3 years ago.

Q. Was it commenced before or after the abrogation of the
7489 state toll?

A. I don't know the date of that.

Q. You say that you do not intend even after that is completed to use that valley line for eastern business over the Sunset, but only use the Dumbarton cut-off for local business up the valley.

A. What I meant to say was that I think under ordinary circumstances the Sunset traffic will continue to move over the Coast Line.

Q. But it is the intention, isn't it, by the use of this Dumbarton cut-off, to eliminate the necessity of ferrying across the Bay?

A. To a great extent, yes.

Q. And that is an expense that has to be borne by the Railroad Company since the state toll was abolished, isn't it?

A. Please state that again.

Q. I say the expense of ferrying cars across from Oakland has to be borne by the Railroad Company since the state toll was abolished?

A. Certainly.

Q. Therefore it is an economical measure to build the Dumbarton cut-off, isn't it, to handle traffic over your rails instead of taking it across the Bay on boats?

A. It is an economical measure.

Q. By using that cut-off you can eliminate the ferrying of cars to a considerable extent?

A. Oh yes.

Q. You testified to certain improvements in the Overland Limited train since 1900; among others, that the train is now electric lighted, as I understand it.

A. Yes, sir.

Q. When did you first light that train with electricity?

A. In April, 1902.

Q. Trains east of the Missouri River had been lighted by
7490 electricity for a long time before that, hadn't they?

A. Some of them had, I think.

Q. A great many west of Chicago and east of the Missouri River?

A. I presume so.

Q. Between St. Paul and Chicago?

A. I presume so.

Q. Wasn't the California Limited of the Santa Fe lighted by electricity before your train was?

A. I couldn't state.

Q. It is a fact that in the last 6 or 7 years electric lighting has come in vogue pretty generally on good trains, hasn't it?

A. It is much more general than formerly.

Q. And in many cases now it is done without the aid of a dynamo car, isn't it? It is done with the power from the axle?

A. In a good many cases, yes.

Q. It is not an unusual thing that at the present time your Overland train should be electric lighted? All the overland trains are electric lighted, aren't they?

A. No, they are not.

Q. All the fast overland trains?

A. No.

Q. Isn't the Great Northern?

A. I understood you to say our overland line.

Q. No, I said all fast overland trains.

A. Pardon me. I am not informed as to that.

Q. Isn't the North Coast Limited on the Northern Pacific electric lighted?

A. I only known by hearsay that it is.

Q. And the Golden State Limited?

A. The Golden State Limited is electric lighted.

Q. And the Santa Fe Limited?

A. I think so.

Q. Now, you also made a point, or Mr. Dunne did through your testimony, that you have a dining car not only on the Overland but on the train from New Orleans?

A. Yes.

7491 Q. It is very customary now to run dining cars, isn't it?

A. It certainly is.

Q. On all roads over the country?

A. Yes.

Q. It is not a remarkable circumstance. A few years ago you had a buffet smoker, with barber shop and toilet conveniences, bath-room, on the Overland Limited, hadn't you?

A. We had.

Q. You have taken that off?

A. We have.

Q. So that is a retrograde movement, if it could be so termed?

A. Not so considered by those who advocated its being taken off. They substituted another car.

Q. They didn't substitute another barber, did they?

A. They substituted another car that they thought was more popular with the patrons of the train.

Q. At any rate, you formerly had an observation car in the rear, had you not, with buffet smoker, barber shop and bath-room ahead?

A. We had.

Q. Similar to the trains making fast runs between here and Chicago?

A. Yes.

Q. And you no longer have the car up ahead?
A. Not that kind of a car.
Q. With barber shop and bath-room. At any rate you ran solid compartment cars on that train, didn't you?
A. We ran one compartment car.
Q. That is what I mean—a compartment car, put it that way.
A. A car all compartments.
Q. That is what I mean. Which you no longer run?
A. I think not.

7492 Q. Have you since recess had an opportunity to find out the changes in the schedule of the Overland, or do you want me to ask the passenger men about that?

A. I would rather you would ask them.
Q. You described at some length what you called your manifest system. Will you kindly very briefly repeat that? Just explain how you operate.
A. The numbers and initials of cars are noted on a blank form and reported to my office by wire from the initial point of a train. There is also given to the manifest itself a number. Thereafter at certain designated points passed by the train, the time of passing is reported by wire by reference to the manifest number only, so long as all of the cars are intact and moving. If any car has been set out for any reason, repairs or anything of that kind, that is also noted, and orders given to pick it up, and when it is picked up it is again reported as showing the delay it suffered and the time it left the point, and the arrival at destination is reported in the same manner. That is a very brief outline of it.
Q. Is that system in vogue on any of the other roads, or something like it?
A. Something similar on other roads, yes, sir.
Q. What other roads?
A. I could not name them.
Q. Most of the principal roads?
A. It is quite common on the western roads.
Q. On the trans-Missouri roads?
A. Yes.
Q. Beyond the Missouri River?
A. Yes. Well, I should like to amend that. I don't know that I should say it is quite common. I know of two or three roads besides our own west of the Missouri River that make use of such a system.

7493 Q. You do not, as I understand it now, make any distinction between classes of freight as to the speed with which you move it? Is that correct, or am I wrong about that?

A. I think you are wrong about that.
Q. I understood that was the testimony—that practically everything now went in a list of 113 classes, that is, over the Union Pacific. Do you operate under the same classification as the Union Pacific?
A. Not altogether.

Q. Well, you do make a distinction between different classes as to speed, do you?

A. Yes. Well——

Q. Not through business, I mean.

A. As to preferred attention. We have a list of commodities——

Q. Of course you understand I do not intend to include packing house trains or the fruit trains, because they were excepted by Mr. Mohler.

A. I did think you included that, but aside from that there is a still further distinction. We have a list of commodities that are included under what we call "for preferred attention." I have not the list with me, and it is not quite as extensive, I think, as the one that was read to you by the Union Pacific officer.

Q. By "preferred attention," do you mean you move by different trains?

A. Oh, no.

Q. Move in the same train?

A. Yes.

Q. Then, so far as the question of speed is concerned, is there any special distinction made by you between dead freight and any other freight?

A. We make a distinction between dead freight and live stock and perishables.

Q. Do you make a distinction between ordinary perishables and dead freight?

7494 A. Oh, yes. We sometimes move both classes of freight in the same train, when there is not enough of the perishable freight to make a train. If there is, it is run separately.

Q. If there is not enough perishable freight to run a train, you run dead freight with it, and the dead freight goes through as quick as the perishable?

A. Yes.

Q. So your preferred attention, or whatever you call it, does not result in anything substantial in the way of saving time?

A. It does where you have full trains of perishable freight.

Q. Yes; but if you do not have——

A. If you do not have, then it is as I just stated.

Q. The perishable freight moves on the regular schedule that you have stated, doesn't it?

A. That I have just named, yes. That is, we aim to make that schedule, and we make it most of the time.

Q. And what is commonly called slow freight or dead freight moves on that same schedule, too, doesn't it? as a rule, or do you have a still slower schedule for it?

A. The schedule I named you was the fruit-train schedule.

Q. Yes; you named the fruit-train schedule, but you gave the time also (or perhaps Mr. Kruttschnitt did) of the through freight movement to San Francisco. You gave it by the Sunset Route, and I think he gave it by the Ogden Route also.

A. I gave it for a specific number of cars only.
Q. That was given as an example, as an average, wasn't it?
A. That is right.
Q. Now, what I want to get at is, is that the average speed at which you move all classes of freight outside of fruit and packing-house products and things of that sort?
A. I think it is; I think that represents the average.
Q. They move indiscriminately in the same trains?
A. Yes, sir.

7495 By Mr. DUNNE.

Q. Mr. Richardson, does this detail indicate the time when the cargo leaves and when the cargo arrives?
A. Yes.
Q. So that the time the freight composing that cargo is in movement between origin and destination is shown?
A. Substantially, yes.
Q. And that is for 1900 and for 1909?
A. It is.
Q. Now, Mr. Severance had a good deal to say about washouts on the Sunset. When that line was first opened (I mean the Coast line), you said, as I understood you this morning, that you had some trouble with washouts and other conditions.
A. When we first attempted to open it.
Q. Yes. The line was afterwards strengthened, was it not?
A. Very materially.
Q. And since that time have you had any more trouble with washouts upon that line, than upon any other line?
A. I should think not.
Q. Isn't it the fact that after you got that Coast line fairly opened and running, the bulk of the Sunset freight moved, and for years has moved, over that Coast line?
A. Not only that, but the bulk of the passenger travel.

By Mr. SEVERANCE:

Q. I would like to find out something about these figures here. You gave a statement of the average movement of a lot of cars from Los Angeles to New York. Will you look at these details that you have just handed me, and see whether they contain the details of that movement?

A. I stated that I had not a detail of those 200 cars that
7496 made that time from Los Angeles to New York. I don't think that this is the detail. You will notice that this covers cars moving in both directions, both to and from Los Angeles and San Francisco.
Q. Where did you get that paper that you have in your hand?
A. I didn't know I had it until it got into your hands. I don't know where I got it.

Q. It got into my hands from your hands.

A. I know it did. I intended to hand you the other statement.

Q. I did not want any inference that I got it illegitimately. I got it from you.

A. I am perfectly willing that you should have it again. But I do not know what it was intended to cover. As I say, it appears to cover cars to and from both places.

Q. Well, the movement of cars from Los Angeles to New York by the Sunset Route depends somewhat on whether they reach Galveston in good time to catch a ship, doesn't it?

A. It does, yes.

Q. And if it arrives just in time, the movement is faster.

Mr. DUNNE. That is, eastbound.

Mr. SEVERANCE. Yes, eastbound; from Los Angeles to New York.

Q. That is a fact, isn't it, to the best of your judgment—and of course that is all you can give, as you have not the details with you—that in making up this average movement of 15 days from Los Angeles to New York, cars that were more than 15 days in getting through were put in, and other cars that may have moved in less than 15 days, and a general average was taken of the lot?

A. Yes.

7497 Q. Depending on whether they caught the ship?

A. Yes.

7498 R. B. MILLER.

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination by Mr. DUNNE.

Q. Mr. Miller, where do you live?

A. Portland, Oregon.

Q. What is your occupation?

A. Traffic manager of the Oregon Railroad & Navigation Company and the Oregon-Washington Railroad, and general freight agent of the Southern Pacific lines in Oregon.

Q. How long have you been the general freight agent of the Southern Pacific lines in Oregon?

A. Since 1905.

Q. Have you been, also, general freight agent, since that time, of the O. R. & N.?

A. Yes.

Q. Previously to that time you had been engaged in the traffic department of the O. R. & N.?

A. Yes, sir.

Q. Since what time?

A. Since 1886.

Q. You went in there as a young fellow, I suppose?

A. Yes, sir.

Q. A boy. During the years 1899, 1900 and 1901, do you know how many boats the Navigation Company had in service on the Willamette River?

A. They operated four boats on the Willamette River at different times.

Q. What do you mean by saying they operated four boats at different times—that they did not operate four boats together?

A. Yes; they were not all operated continuously.

Q. How many boats did they operate concurrently, together?

A. Two, and sometimes three.

7499 Q. Do you know what the tonnage and capacity of those river boats was?

A. The total freight-carrying capacity of the "Ruth" was 175 tons; the steamer "Modoc" 160 tons; the steamer "Elmore" 200 tons; the steamer "Gipsy" 75 tons. The steamer "Gypsy" sank on July 11, 1900.

Q. What was the draft of those boats?

A. The draft of those particular steamers, that is to say, of the "Ruth," "Modoc" and "Elmore" was from 4 to 5 feet loaded; the "Gypsy" of course was very much less.

Q. What were the river points reached by those boats and by the rails of the Southern Pacific Company?

A. Oregon City, New Era, Salem, Independence, Albany, Corvallis. Of course, those points that I refer to are the points that are served by both the boats and the Southern Pacific. There are a number of other points that are served by the boats that are not served by the Southern Pacific, but the traffic might and probably would be delivered to the Southern Pacific in the event that there were no boats operated.

Q. Do you mean that the Southern Pacific does not actually take that business—that the river boats get it from those points?

A. Yes.

Q. Well, give us those points, anyhow.

A. Butteville, Cane Landing, Champoog, Gearin Landing, Herris Landing, Newburg, Reeds Landing, Wilsonville, Wheatland.

Q. You have named some river points that were served by the rail and by the boat. About how far south are those points from Portland?

A. Oregon City is 15 miles; New Era is 21 miles; Salem 57, Independence 76, Albany 80, Corvallis 97.

7500 Q. How far is Harrisburg from Portland?

A. 110 miles by rail.

Q. How frequently and up to what time was Harrisburg served by the river boats?

A. The boats have not gone to Harrisburg since 1896.

Q. What is the condition of that river at points common to the rail and the boat, that you have mentioned, in reference to navigability?

A. At times the river is so shoal that the boats are not able to get above Salem; in fact, they do get above Salem only during the winter and spring months, or, say, from the first of November, and sometimes the 15th of November to the first of June—sometimes the first of July.

Q. I suppose these boats take some local business to and from Portland, do they not, as well as business with boats through Portland?

A. Yes.

Q. Was there any other boat service on the river during 1899, 1900 and 1901, besides the service of these river boats of the Navigation Company?

A. There was.

Q. What service was that?

A. The service maintained by the Oregon City Transportation Company.

Q. Were hops produced along the Willamette River at these points that you mention, in 1899, 1900 and 1901?

A. Yes.

Q. About what proportion of the Willamette Valley hop crop was shipped from these river points?

A. About 10 per cent of the total amount of hops produced in the Willamette valley are shipped by boat on the Willamette River.

Q. The other 90 per cent would be local to the Southern Pacific rails?

A. Yes.

Q. Did those river boats carry any wool?

A. Practically none.

7501 Q. What have been the results of the operation of the river boats, in point of revenue, as to profit or loss, from 1899 or 1900 to 1904?

A. The boats have operated at a loss.

Q. Have you any figures for 1900, 1901 and following, as to the surplus or deficit above operating expenses?

A. For the fiscal year ending June 30, 1900, the Willamette River steamers of the Navigation Company had a deficit of $6,008.43.

Q. For 1901 was there a surplus or deficit, and what was it?

A. The deficit was $15,465.37.

Q. For 1902 was there a surplus or deficit, and what was it?

A. A deficit of $26,413.02.

Q. For 1903 was there a surplus or deficit, and what was it?

A. A deficit of $30,221.87.

Q. In 1904 was there a surplus or deficit, and what was it?

A. A deficit of $37,062.05.

Q. Have these river boats been operated below Oregon City since 1904?

A. They have.

Q. You say they have been operated. The Oregon Navigation Company's river boats?

A. Yes, between Portland and Oregon City their service has been confined.

Q. You misunderstood my question. What I wanted to ask you was whether they have been operated above Oregon City.

A. The boats discontinued going above the mouth of the Yamhill River in 1904.

Q. How far is Oregon City from Portland?

A. 15 miles. But the river runs north. So when I say "below," I mean Oregon City.

7502 Q. At all events, Oregon City was the point that they did not go beyond for business after 1904?

A. Yes.

Q. During 1899, 1900 and 1901, how many of these river boats did the Navigation Company have in the service at one time?

A. Well, there were four steamers.

Q. I mean how many steamers operated at any one time?

A. Two, and sometimes three. The "Gypsy" was always used as a wild boat; she operated promiscuously and during such times as the water was very low on the upper river.

Q. There were two regular boats, then?

A. Two regular boats.

Mr. SEVERANCE. No, three, he said.

Mr. DUNNE. The "Gypsy" was the wild boat.

WITNESS. Yes.

Mr. SEVERANCE. Four boats all together, including the "Gypsy."

Q. But as a matter of practical operation you were running two regular boats during any given interval of time, were you not?

A. Yes.

Q. What was the general character of the freight carried by the steamers from Portland to San Francisco?

A. Do you mean from the Willamette River?

Q. No, from Portland.

A. From Portland to San Francisco, the steamers carried grain, potatoes and box-shooks, principally.

Q. In what territory did that freight originate?

A. The grain originated very largely in Navigation territory east of Portland; the potatoes originated very largely on the Willamette River and at points south of Portland; and the box-shooks originated locally at Portland.

7503 Q. I suppose the return freight would be general merchandise?

A. Yes.

Q. Into what places was that return freight distributed?

A. Distributed through Portland to points in eastern Oregon, Washington and Idaho, and points south of Portland.

Q. The zone of distribution was local, was it?

A. Well, confined very largely to those three states.

Q. During 1899, 1900 and 1901, how frequent were the sailings of these two steamers?

A. Between Portland and San Francisco?

Q. Yes.

A. The sailings were every five days.

Q. How long had there been steamer service between Portland and San Francisco prior to 1900?

A. Well, we know that they were running steamers between those two ports as far back as 1849.

Q. Then this local stuff was taken down by the steamers to San Francisco, and the merchandise brought back to Portland and distributed out, for a great many years?

A. Yes.

Q. What was the time of the service on the steamers between Portland and San Francisco?

A. The time is about 60 hours from port to port.

Q. When did rail service begin between Portland and San Francisco?

A. In 1887.

Q. During 1899, 1900 and 1901, what was the time of freight service by rail, between Portland and San Francisco?

A. Five, six, seven days.

Q. Was that freight handled on way trains?

A. It was.

Q. Can you state the earnings, operating expenses and sur-
7504 plus for these steamers during the years 1899, 1900 and 1901?

A. I can.

Mr. SEVERANCE. You mean the ocean steamers?

Mr. DUNNE. Yes.

Q. Will you give me those items, please,—the earnings, operating expenses and the surplus, for those three years.

A. The gross earnings were as follows—

Q. Take it year by year.

A. For the fiscal year ended June 30, 1899, $359,393.06; a deficit of $3,872.87. For the year ending June 30, 1900, the gross earnings were $447,690.68; surplus $59,629.69. For the year 1901 the gross earnings were $457,575.17; surplus $20,233.44.

Q. What was the ratio, for those three years, for operating expenses excluding taxes, to gross earnings?

A. 1899, 101 per cent; 1900, 86 per cent; 1901, 95 per cent.

Q. Have you the statement, for these three years, of the tonnage and earnings, north and southbound, of these steamers, in respect to so much of the traffic as moved between San Francisco and Portland?

A. Yes, sir.

Q. Will you give those figures?

A. The local tonnage carried between Portland and San Francisco was as follows: For the fiscal year ending June 30, 1899, northbound 38,944 tons; southbound 46,794; total 85,738. 1900, northbound, 48,834 tons; southbound 37,302; total 86,136. 1901, northbound, 44,724 tons; southbound 31,976 tons; total 76,700 tons.

Q. Have you the earnings?

A. The earnings: 1899, northbound, $112,768.98; southbound, $117,826.01; total, $230,594.99. 1900, northbound, $139,058.19; southbound, $100,600.99; total $239,659.18. 1901, northbound,
7505 $131,860; southbound, $85,190.55; total $217,050.55.

Q. What was the tonnage of the rail lines and the gross earnings of the rail lines of the Oregon Railroad & Navigation Company during those same three years?

A. 1899, 1,375,737 tons; earnings, $6,258,282.33. 1900, 1,506,265 tons; earnings, $6,683,114.85. 1901, 1,843,833 tons; earnings, $7,542,954.75.

Q. Taking the carload movement by rail, between San Francisco and Portland, during the three years 1899, 1900 and 1901, would that be substantially the same as it was in 1898?

A. I should say yes.

Q. I understood you to say that this freight was taken on way trains?

A. Yes, sir.

Q. You have no actual figures for the years 1899, 1900 and 1901, have you?

A. No, sir.

Q. Why not?

A. The records of the Southern Pacific were all destroyed.

Q. In the fire of 1906?

A. Yes; and the records in the Portland office were not available for those years.

Q. Can you state what the carload movement from San Francisco to Portland was, for 1898?

A. Yes, sir.

Q. What was it?

A. The carload movement from San Francisco to Portland in 1898 consisted of 144 cars.

Q. How would the southbound movement compare with that?

A. Substantially the same; something similar to it.

Q. How many of those 144 cars were for delivery on Southern Pacific tracks in Portland?

A. 84 cars consisted of tin cans in bulk, for delivery on the Southern Pacific tracks in East Portland; and 36 cars consisted of
7506 sugar, for delivery in warehouses on Southern Pacific tracks in Portland.

Q. Would those tin cans in bulk go by water?

A. No; that is to say, it was not desirable freight and not practicable to carry tin cans in bulk on an ocean steamer.

Q. What was the northbound carload movement for the year 1908?

A. From San Francisco to Portland it was 640 cars.

Q. Of these 640 cars, how many, if any, were components of that movement by reference to any peculiar circumstances in San Francisco for that year?

A. 289 cars consisted of scrap iron, the shipments being abnormal, due to the San Francisco fire.

Mr. SEVERANCE. How many cars, all together?

WITNESS. There were 640. That refers to business from San Francisco to Portland and East Portland; not destined beyond.

Q. During the years 1899, 1900 and 1901, were there any other water craft plying between San Francisco and Portland?

A. There were.

Q. What were they?

A. Steam schooners.

Q. What were those steam schooners? What did they carry?

A. They were largely engaged in carrying lumber southbound, although——

Q. By the way, let me ask you this question: We ordinarily understand a schooner to be a sailing vessel—what nautical men call a windjammer, I believe. What is a steam schooner?

A. A steam schooner is a vessel propelled by steam, somewhat smaller than a steam ship, and equipped for the purpose of carrying freight more particularly than passengers.

Q. They have sails also, have they not?

A. They have sails.

Q. You were going on to say something about the freight
7507 that the steam schooners would take southbound.

A. I said they were engaged largely in transporting lumber southbound, although some of them took other cargo. Northbound they generally took such cargo as they could get, in preference to ballast.

Q. They carried all kinds of freight, then, northbound?

A. Such as they could get, yes.

Q. What kind of freight did they carry southbound in addition to lumber?

A. Carried grain, principally.

Q. Anything else?

A. They may have taken some box-shooks, possibly some potatoes.

Q. Well, it would be agricultural products of some sort, wouldn't it, the box-shooks, and the lumber?

A. Yes.

Q. Now, between Puget Sound and San Francisco did any water craft ply?

A. Yes.

Q. What did they carry? I am referring now to the years 1899, 1900 and 1901.

A. They carried substantially the same character of freight that was carried between San Francisco and Portland.

Q. What character of water craft were they?

A. They were first-class steamships, operated by the Pacific Coast Steamship Company, and the same character of steam schooners as plied between San Francisco and Portland.

Q. Was the transportation by water to and from Puget Sound a factor in the San Francisco-Portland rates by water craft between the two latter points?

A. Yes, indeed.

Q. In what way?

A. It was not practicable to charge any higher rate between
7508 San Francisco and Portland than was charged by the steamers between San Francisco and the Puget Sound ports, without handicapping the Portland merchants as against the Puget Sound merchants (particularly Tacoma and Seattle) in the distribution of goods of California origin or production, at points in eastern Oregon, Washington and Idaho. And in the opposite direction, it was not practicable to get any higher rate on grain from Portland to San Francisco than in effect from Puget Sound to San Francisco, without causing a diversion of the grain to the Northern Pacific in eastern Washington and parts of eastern Oregon for shipment via Puget Sound.

Q. If the rates from Portland had not met the Puget Sound rates, what would have been the effect upon the transportation of grain, flour, and mill stuffs from the interior points?

A. If the rate from Portland had been higher than from Puget Sound, the business would move through Puget Sound ports.

Q. Did lumber and other traffic move from Portland to points on and beyond the D. & R. G. in 1900?

A. Yes, sir.

Q. To what extent did lumber move to Ogden and Salt Lake during these years, by way of Huntington?

A. The movement of lumber from Portland via Huntington was as follows: In 1899, to Ogden, 702 tons; Salt Lake, 3,506 tons. 1900, Ogden, 632 tons; Salt Lake, 5,925 tons. 1901, Ogden, 1,510 tons; Salt Lake, 9,379 tons.

Q. That is the Huntington route?

A. That is via Huntington to Ogden and Salt Lake.

Q. Now, still adhering to the Huntington route, can you give the corresponding figures on freight other than lumber?

7509 A. Freight other than lumber: 1899, to Ogden, 101 tons; Salt Lake, 455. 1900, Ogden, 98 tons; Salt Lake, 591. 1901, Ogden, 108 tons; Salt Lake, 176.

Q. In giving the lumber movement by the Huntington route, to Ogden and Salt Lake, did you give the Southern Pacific revenue—or have you those figures?

A. I have the revenue. On lumber, Union Pacific system revenue (that is to say, the revenue from Portland to Ogden and Salt Lake, as the case might be) was as follows: 1899, to Ogden, $5,070.52; Salt Lake, $26,183.22. 1900, Ogden, $4,345.71; Salt Lake, $44,222.81. 1901, Ogden, $11,752.98; Salt Lake, $66,808.39.

Q. Will you state the revenue correspondingly, on freight other than lumber?

A. 1899, to Ogden $960.34——

Q. This is all Union Pacific system, is it?

A. Yes. Salt Lake $4,048.46. 1900, Ogden $778.51; Salt Lake $4,932.38. 1901, Ogden $1,531.39; Salt Lake $2,692.62.

Q. Do you know of any lumber or other freight in any appreciable quantity that moved to Ogden or Salt Lake by the round-about route from Roseville?

A. Not from Portland, no, sir.

Q. Was there any movement in lumber or other traffic, from Portland via Roseville to points on and via the D. & R. G. and its connections, so far as you ever observed?

A. Yes, there was some, but I don't think it ever amounted to much.

Q. There was some reference made, I believe, to a lumber rate put in from some point on the Navigation Company—Mount Hood, or some such point——

Mr. SEVERANCE. Hood River.

7510 Q. Hood River—to some point on the Southern Pacific in Utah and Nevada, west of Ogden, or perhaps to one or two points west of Ogden. Do you recall the circumstances under which that rate was put in?

A. Yes, I am quite familiar with those circumstances.

Q. Will you state the circumstances?

A. On October 21, 1905, the O. R. & N. Company published a rate of 40 cents per 100 pounds on lumber from Portland and certain Southern Pacific points in Oregon to Umbria and Lucin, Utah, which was the same rate as applied via Shasta or Roseville route. On January 17, 1907, the O. R. & N. published a rate of 40 cents per 100 pounds on lumber from Portland only, that is to say, not from points south of Portland, to Palisade, Nevada, which was the same as applied via the Shasta route. The tariffs carried the long and short haul clause, and therefore applied as a maximum from and to intermediate points. Hood River is a point 66 miles east of Portland, and, being intermediate, the Portland rate was not exceeded from that point. The rates were originally established largely for the purpose of assisting in the movement of the traffic owing to the conditions that existed on the Southern Pacific lines at that time.

Q. How long was the rate in, do you know?

A. The rate to Palisade was canceled October 10, 1907, and to Umbria and Lucin on July 31, 1907. Now, Lucin is a point on the Southern Pacific lines 102 miles west of Ogden. Umbria is a point on the Southern Pacific lines 104 miles west of Ogden. Palisade is a point on the Southern Pacific lines 259 miles west of Ogden.

Now, the rate which was applied from Portland to these points
7511 was the same as applied to Ogden, notwithstanding the fact that the distance to Lucin, Umbria and Palisade was considerably greater than to Ogden. Out of the 40-cent rate to the points in question, it was necessary to allow the Southern Pacific Company something for its service west of Ogden. It seemed to

me quite objectionable to permanently continue carrying the Ogden rate to a point west of Ogden for the additional distance. Therefore the rates were canceled: the Southern Pacific in the meantime having been in better position to take care of the traffic over its own lines.

Q. Was anything done in respect to the local rate from Hood River to Portland?

A. Yes. When the rates from Portland were withdrawn we established a special rate of 5 cents per 100 pounds from Hood River to Portland for the benefit of the mills at Hood River, the local rate at that time being, I think, practically 10 cents per 100 pounds from Hood River to Portland.

Q. Referring to the westbound business to Portland from the east, have you any figures for the movement of carload freight via Roseville as compared with the total carload movement, for the years 1898, 1899 and 1900?

A. I have. These figures are approximate. I do not refer to them as being absolutely correct.

Mr. SEVERANCE. Where do you get them? I thought they were all burned up—all the Southern Pacific records.

WITNESS. Well, these particular figures were found in the
7512 office of the district freight agent of the Southern Pacific Company at Portland.

Mr. SEVERANCE. Have you the details with you?

WITNESS. To what detail do you refer?

Mr. SEVERANCE. These figures that you found. Have you the data with you that you found in the office?

WITNESS. No.

Mr. SEVERANCE. We object to the testimony, as incompetent.

Q. Give us the figures, Mr. Miller.

A. Now, I am stating the approximate carload movement from eastern points to Portland. In 1898 the movement via Ogden and Roseville was 298 cars, while the total movement via all lines to Portland was 4,214 cars. Southern Pacific percentage via Ogden and Roseville 7 per cent. In 1899 the movement was 251 cars via Ogden and Roseville, and 4400 cars via all lines; Southern Pacific percentage via Ogden and Roseville 6 per cent. In 1900 the movement via Ogden and Roseville was 265 cars; via all lines 4400; Southern Pacific percentage 6 per cent.

Q. Did these cars that went by Roseville pass through Ogden?

A. They did.

Q. How is Portland related to the Willamette valley as a point of distribution?

A. The largest part of the merchandise consumed in the Willamette valley is distributed from Portland.

Q. How are the credits and banking of the valley points related to Portland?

A. Their business is done chiefly if not entirely with the financial institutions of Portland.

Q. Are the difficulties and length of haul by the Roseville route complicated with any other difficulty in respect to the
7513 hauling of empties north to points of origin?

A. Yes, sir. The preponderance of Willamette valley tonnage is outbound.

Q. Let me ask you this question, suggested by that: Where is the movement of rough lumber from the Willamette valley?

A. Principally to California.

Q. We hear a great deal of talk about the Willamette valley. I think Bro. Severance made some eloquent reference to its "enormous tonnage" here the other day. The Willamette valley does not stop with these few bay points served by the river boats, does it?

A. No.

Q. I understood you to say that 90 per cent of the output was local to the Southern Pacific rails.

A. In referring to hops, that was true.

Q. That is the principal product, isn't it, or a large product of the valley?

A. Yes.

Mr. SEVERANCE. I don't think that is what he said. I think he said that 10 per cent only of the hops came from Portland by boat.

Mr. DUNNE. I know when Mr. Spence was on the stand the other day——

Mr. SEVERANCE. Of course you do not intend to misquote your own witness. He did not state that 90 per cent came over Southern Pacific rails.

Mr. DUNNE. Yes. I understood him that 90 per cent did.

The WITNESS. Just read the question.

The following question was read: "We hear a great deal of talk about the Willamette Valley. I think Bro. Severance made
some eloquent reference to its "enormous tonnage" here the
7514 other day. The Willamette Valley does not stop with these few bay points served by the river boats, does it?

Mr. DUNNE. Just strike out the word "bay" and make it read "river" points. I was dreaming about this enormous tonnage that Bro. Severance talked about the other day.

Q. Then, you understood my question?

A. Yes, but I would like to hear my previous answer read, about the hops.

Q. I understood you to say that a certain percentage of those hops was shipped through these river points served by rail and by boat, about 10 per cent; is that correct?

A. I said that about 10 per cent of the total hop crop of the Willamette valley moved to Portland by boat.

Mr. SEVERANCE. That is exactly what you said. That is what I said he said.

Q. How much of the Willamette valley crop, if you know, is local to the Southern Pacific rails?

A. The other 90 per cent would be shipped over the Southern Pacific rails.

Mr. DUNNE. That is right. That is just what I understood you.

Q. Now, this rough lumber from the valley goes where?

A. The rough lumber goes principally to California.

Q. To San Francisco and bay points, does it?

A. Some of it goes to San Francisco and bay points.

Q. The northbound tonnage into the valley, I understood you to say that the outbound tonnage was larger or predominated over the inbound; is that correct?

A. That is correct.

Q. What has been the effect of that conditon upon the hauling of empties into the valley to supply southbound traffic?

7515 A. It has necessitated the hauling of large numbers of empty cars into the Willamette valley.

Q. Where was the Southern Pacific Company's supply point for those cars?

A. Sacramento and San Francisco.

Q. Approximately what is the distance from those points into the Willamette valley?

A. The distance from San Francisco to Portland over the Short Line is 746 miles.

Q. Where does the Willamette valley find its market for the clear lumber?

A. In Utah, Colorado, Kansas, Nebraska and beyond.

Q. How is the shipper better served in respect to car supply, on his eastbound business—from Portland or from Sacramento?

A. From Portland. The distance from Portland is a great deal less than it is from San Francisco.

Q. There is a long and expensive haul, is there not, from Sacramento?

A. Yes.

Q. Take empties which would have been hauled north from Sacramento or San Francisco to supply the outgoing tonnage of the Willamette valley, could those empties be loaded in California to advantage?

A. I understand that, generally speaking, yes.

Q. Now, prior to the year 1900 and ever since, what have been the relations between the Southern Pacific and the O. R. & N., so far as the Portland gateway is concerned, in respect to a through route and joint rates and divisions on business from the Willamette valley points?

A. Through rates were in effect on all traffic except on lumber eastbound.

Q. How long had these joint rates by way of Portland, from

7516 the valley, been applied, prior to 1900?

A. For several years prior to 1900.

Q. Isn't it a fact that ever since 1890 the Portland gateway has been open on the same through rate that the Roseville gateway has, for all the valley traffic except as to lumber?

A. Yes, sir, I think so. It is so, except as to the date. I am not sure about——

Q. Well, it was some years before 1900?

A. Yes.

Q. Prior and subsequent to the year 1900, to what extent have rates and divisions on Oregon business been maintained through the Southern gateways—Mojave and El Paso?

A. They were in effect and have ever since been continued in effect, except possibly on lumber.

Q. Do you know whether they were continued on lumber, or discontinued?

A. I do not think the same rates apply on lumber from Portland via those gateways, that apply via Portland.

Q. There is a through rate by those gateways, on lumber, is there not?

A. I think there is some through rate, but no business moves that way.

Q. Was any through rate discontinued after 1900 on the Oregon business, except this route over the Siskiyous and the Sierras, by way of Roseville and Ogden?

A. That is right.

Q. Previous to that time—prior to what has been called the closing of the Roseville gateway, as I understand you, the Portland gateway had been open for years upon all of that valley traffic except lumber; is that right?

A. That is correct.

Q. In sending business originating at Southern Pacific points in Oregon through the Portland gateway instead of the Roseville
7517 gate, for eastern destination, what was the effect of that arrangement, so far as the shipper was concerned, in reference to the advantages of route?

A. It was to the shippers' material advantage.

Q. Had you been requested by shippers in the valley to open the Portland gateway to lumber—prior to 1901?

A. The Southern Pacific had.

Q. You have said that for some years prior to 1900 there had been through routes and divisions via Portland on all this valley traffic except lumber. What was the percentage that accrued to the Southern Pacific on the short haul to Portland?

A. The Southern Pacific were allowed south of Portland 30 per cent of the west of the Missouri proportion of the through rate.

Q. What was the division accruing to the Southern Pacific through Roseville for the haul from Ogden?

A. Via Ogden I think it was 58 per cent.

Q. By the way, you have said that there were through rates and divisions on all traffic except lumber, from the Willamette Valley via Portland, with the O. R. & N.?

A. Yes, sir.

Q. Didn't the Southern Pacific have the same through arrangements and through route with the Northern Pacific via Portland, on all of that valley traffic except lumber, prior to 1900?

A. They did.

Q. The Navigation Company distributed lumber from its own rails, to local points, didn't it?

A. It did.

Q. Also the Northern Pacific?

A. Yes, sir.

Q. After the so-called closing of the Roseville gateway, what
7518 was the percentage that accrued to the Southern Pacific Company for the haul to Portland?

A. The Southern Pacific were allowed 40 per cent of the west of the Missouri proportion of the through rates except on lumber.

Q. Lumber was a low-grade commodity, wasn't it?

A. Yes.

Q. What was the percentage that accrued to the Southern Pacific on lumber for the short haul?

A. 25 per cent of the west of the Missouri proportion.

Q. By the way, the Southern Pacific never has had any through rates on lumber with the Northern Pacific, via Portland, has it?

A. No, sir.

Q. Do you remember the date when the Portland gateway was opened to lumber originating at Southern Pacific points in the Willamette valley?

A. Some time in 1901.

Q. At that time was not the Southern Pacific lumber in Oregon given an outlet through the Portland gateway, and treated like any other traffic originating on Southern Pacific rails in Oregon, so far as the opening of the Portland gateway was concerned?

A. It was.

Q. You have been there for a number of years in the railroad business in that country. I will ask you if the arrangement by which the Portland gateway was opened and the traffic originating in Oregon sent through Portland instead of being sent over the Siskiyous and the Sierras, via Roseville, was not to the benefit and advantage of the shippers?

Mr. SEVERANCE. We object to that as incompetent.

A. It was to the material advantage of the shipper.

Q. I will ask you a further question—if at the time this Port-
land gateway was opened and the so-called Roseville gateway
7519 was closed, the same rates on eastbound lumber were not accorded to shippers in the Willamette valley, as applied from Portland in the first instance.

A. That is true to the territory Utah and east.

Q. I believe you testified that the rate on this lumber was about $8 a ton; that is what you got, isn't it?

A. The rate to Utah was $8 a ton. The rate to the Missouri River was $10 a ton.

Q. I am speaking now of the money that accrued to the Union Pacific system on the haul. What was the lumber rate to the Missouri River from these Oregon points?

A. $10 a ton.

Q. And to Utah and Colorado you say it was $8 a ton.

A. $8. To Chicago it was $11, out of which lines west of the Missouri River earned $9 per ton.

Q. That was in 1901 that the rate to Utah and Colorado was $8 a ton and to the Missouri River $10 a ton?

A. Yes, sir.

Q. Beyond Portland did the Navigation Company carry freight from San Francisco to points which were also reached by the Northern Pacific?

A. Yes.

Q. In what state or states?

A. Oregon, Washington and Idaho.

Q. Did the Navigation Company have any rails to Montana?

A. They did not.

Q. How did their business move to Montana points?

A. Moved via Wallula, Spokane and Huntington.

Q. Substantially, how did the business move?

A. It moved largely via Wallula to Montana common points.

Q. That was the principal gateway of the O. R. & N. to Montana common points, wasn't it?

7520 A. I think there was more traffic moved through that gateway than any other gateway, via the O. R. & N.

Q. That is what I am speaking of. Was the service of the O. R. & N. to these common points with the Northern Pacific in Washington,—eastern Oregon, Washington and Idaho, a broken service? Did it have broken service from San Francisco to those points?

A. It did.

Q. What were the component members of that service?

A. Steamship lines San Francisco to Portland, rail line beyond.

Q. What was the character of service that the Northern Pacific had from San Francisco to those points?

A. Steamship San Francisco to Tacoma and Seattle, rail beyond.

Q. Did the Southern Pacific have any means of reaching those points, except as a connection of the Northern Pacific or the O. R. & N.?

A. It did not.

Q. By the way, did the Southern Pacific have through rates with the O. R. & N. to these points reached by the O. R. & N.?

A. It did.

Q. Did it also have through rates with the Northern Pacific?

A. It did.

Q. How did the rate applying over the all-rail route of the Southern Pacific and its northern connections, compare with the rate made by those connections over their own broken service routes?

A. The rate for the all-rail service was higher to all points in Washington, Oregon and Idaho.

Mr. SEVERANCE. That is not a complete answer. You have been asking about Montana, too.

Mr. DUNNE. No, I am asking about these points that were
7521 reached by the O. R. & N. and by the Northern Pacific.

WITNESS. Well, those are the points: Oregon, Washington and Idaho.

Q. How did the Southern Pacific business principally move to Montana common points?

A. From San Francisco?

Q. Yes.

A. Moved principally via Ogden.

Q. I believe there was some question asked about Boise this morning, of Mr. Brewer. That is in southern Idaho, isn't it?

A. Yes, sir.

Q. Could points in southern Idaho like Boise be reached by the Navigation Company or the Southern Pacific Company, except in connection with the Short Line?

A. Could not.

Cross-examination by Mr. SEVERANCE:

Q. How are the rail rates to Montana common points, all-rail, as compared with the broken water-and-rail rates?

A. To Montana common points they are the same.

Q. That is to say, traffic could move from San Francisco via the Southern Pacific to Portland, and thence over the Northern Pacific rail line to Montana common points, at the same rate at which it could move to Portland via the O. R. & N. ships and thence to Huntington by the O. R. & N. rail lines, and thence to Pocatello by the Oregon Short Line, and thence to Montana by the Oregon Short Line?

A. Yes. At that time the rates from San Francisco and the northern terminals to Montana common points were the same via all routes.

Q. That is what I thought. How much higher was the all-rail rate to points in eastern Oregon and in Washington and Idaho,
7522 than the broken steamer-and-rail rates? You said there was a differential.

A. Yes, there was a differential there, ranging I think from 10 cents first class down to about 3 cents on the lower classes.

Q. What classes of commodities moved in the greatest volume from San Francisco?

A. All character of tonnage moved from San Francisco to this territory. Speaking of commodities by themselves, perhaps sugar would be one of the heaviest.

Q. That was one of the important California commodities?
A. Yes.
Q. What you call California products?
A. That is what we call it, yes.
Q. That is an important California product?
A. That is right, yes.
Q. On what class did sugar move, or did it move on a commodity rate?
A. Sugar moved under a commodity rate from San Francisco to Portland, and I think under the class rate from Portland to these points in question.
Q. What class is sugar?
A. Fifth class in carloads.
Q. What would be the actual differential, as nearly as you can give the percentage, say on sugar, from California to those points in eastern Oregon, Washington and Idaho, where you say the differential existed?
A. On sugar in carloads the differential was 3 cents a hundred.
Q. On the through rate?
A. Yes.
Q. The commodity rate by the rail line from San Francisco to Portland was higher than the boat line?
A. Yes, by 3 cents a hundred pounds.
7523 Q. And from Portland on they moved at the same rates?
A. Yes, sir.
Q. Did that differential apply to all points in those three states that you have mentioned—Idaho, Washington and Oregon?
A. During the years 1899, 1900 and 1901, that is so.
Q. How was it before that time?
A. That was true before that.
Q. Has it been so since then?
A. No, sir.
Q. When did it change?
Mr. DUNNE. I understand from Mr. Loomis that there may have been some misunderstanding in one of the answers.
Mr. LOOMIS. He said the rate from Portland on was the same. I think he meant that the differential continued the same.
Mr. SEVERANCE. No, there was no differential from Portland on. They both took the rail rate, didn't they?
WITNESS. Yes.
Mr. SEVERANCE. There was a differential of 3 cents, San Francisco to Portland, and that made 3 cents on the through line; but the rate was the same from Portland on.
Mr. LOOMIS. The local rate the same from Portland on?
Mr. SEVERANCE. Well, however you make up the through rate.
Mr. LOOMIS. I thought there was some little misunderstanding.
WITNESS. The through rate from San Francisco, on sugar, to these points in Oregon, Washington and Idaho, during the time you speak of, was based on the rate from San Francisco to Portland plus the

rate from Portland to destination. The rate from San Fran-
7524 cisco to Portland by rail was 3 cents per 100 pounds higher than the rate by water.

Q. That is exactly the way I understood you. And the rate from Portland on was the same, of course, because it moved over the same rails, or similarly?

A. Certainly.

Q. When was the differential abolished?

A. The differential has not been abolished except on traffic to points in Oregon that are served by the lines of the Navigation Company.

Q. When was that?

A. Oh, the rates have been the same for three or four years—or two or three years.

Q. In what way was that differential abolished? by raising the boat-and-rail rate, or lowering the all-rail rate?

A. The rates from San Francisco into this Oregon territory on the Navigation lines by boat through Portland, were established on the basis of the same water differential or water arbitrary that was used in forming through rates from San Francisco to points in eastern Washington and northern Idaho, and those rates in turn were fixed by the water rates that were charged from San Francisco to Puget Sound. The rates by rail were higher to the extent of about 10 cents per hundred pounds first class. Then we concluded that the rates from San Francisco to points in Oregon east of Portland should not necessarily be the same as the basis used in arriving at the rates to Puget Sound for the purpose of meeting competition through the Tacoma and Seattle gateways; therefore, they were put on substantially the sum of the locals on Portland both by rail and by water. In other words, we could find no good reason at our dead local points in making rates from San Francisco, either all-rail or by
7525 water and rail, less than the full combination of the locals through Portland. And I think they stand that way today.

Q. That is a very interesting explanation; but I want to get down to something cold and terse and short. Did you raise your rate when you put these on a parity, or did you lower it?

A. Yes, I think the rate was advanced.

Q. So instead of maintaining your lower rate by boat-and-rail, that you had maintained before, having the whole thing in your own hands, representing both lines (the Southern Pacific line and your line) you raised the rate?

A. I don't think that is a fair statement.

Q. Well, it is true, isn't it? at least it is a coincidence?

A. I made this explanation for the purpose of informing you of the basis upon which these rates were constructed from San Francisco to all of these interior points. Now, if we made a mistake in fixing our rates from San Francisco to Oregon points where we did not find the conditions to be the same as elsewhere, there was no reason why those rates should not be changed.

Q. How many years did it take you to find out you had made a mistake?

A. I don't think it took us very long, because there were different bases of rates in that territory.

Q. For how many years did the differential continue?

A. Between the rail and the water?

Q. Yes—the one you have been testifying about, which you took out. Did that continue for some time?

A. I don't know how long.

Q. For how many years?

7526 A. The differential was started about the year 1897, I think, or somewhere thereabouts.

Q. And continued up to what time?

A. Continued up to about three or four years ago.

Q. How long after you were made general representative of the Southern Pacific and the O. R. & N. was it taken out?

A. After I was made the general representative——

Q. At Portland.

A. —— in 1905, it would have been some two or three or possibly four years.

Q. Before it was taken out?

A. Yes.

Q. That is, it took you that long to find out your mistake, after you represented both lines, did it?

A. Well, it was not done until about that time.

Q. Now, you say you became the general representative in 1905?

A. Yes.

Q. And you said a moment ago, didn't you, that that differential was abolished three or four years ago?

A. That is what I said.

Q. Figure back and see how it continued three or four years after you became general representative.

A. Well, from 1905 to 1910 is five years.

Q. How long ago was it abolished?

A. I told you it was two or three years ago.

Q. Then it was perhaps two years after you had became the general representative?

A. Something like that, yes.

Q. And the result is that the communities in eastern Oregon are, by reason of your action, paying a higher rate than they did before, on products brought up from San Francisco?

A. No, I don't think that is so.

7527 Q. Why not—if you raised the rate, they have to pay it, don't they?

A. Well, it is very questionable in my mind whether the rates were advanced in all instances; and those cases where the rates were advanced, if they were advanced, were not of any great magnitude.

Q. What did you mean by your long explanation that there wasn't any reason for you to maintain those low rates where you didn't

have any competition at Puget Sound points, if you did not advance the rates?

A. Because I wanted you to understand that there are two different bases of rates observed in that territory.

Q. Do I understand you to say now that you did not advance the rates?

A. No, I don't want you to understand that.

Q. As a matter of fact, you did advance the rates, didn't you?

A. Yes, there were some of the rates advanced.

Q. And if you advanced the rates, the communities that consumed those products have to pay bigger prices for transportation, don't they?

A. That is true in cases where the rates were advanced.

Q. Can you give any instance in which the rate was cut down?

A. No, nor can I give you any instance where the rates were advanced.

Q. Now, that applied to all points in Oregon?

A. I think that applied to all points in the state of Oregon. In other words, the rates from San Francisco to all points in the state of Oregon on the Navigation line east of Pendleton, Oregon, are the rates from San Francisco to Portland (whether they are the
7528 water rates or the rail rates) added to the rates from Portland to destination. Now, if that in any case has resulted in an advance, it has resulted in an advance.

Q. Will you give me a straight answer?

A. Yes.

Q. Have the rates been advanced or have they not?

A. They have been advanced in some instances.

Q. Have they been lowered in any instance?

A. I think possibly they have.

Q. Do you know any instance?

A. No.

Q. Can you name any?

A. No, nor can I name any instance where they have been advanced.

Q. You are the general freight agent that made the tariff, aren't you?

A. Yes.

Q. And that is all you know about it, isn't it?

A. Yes. But the whole business doesn't amount to much.

Mr. DUNNE. What is that, Mr. Miller?

WITNESS. I say the whole thing doesn't amount to much.

Q. Now, you did not advance the rates or take out the differential into Idaho or Washington where you are in competition with the Northern Pacific, did you?

A. No, we couldn't do it.

Q. Then competition had some effect in that instance?

A. Yes, but——

Q. Well, that is all. That answers the question.

A. I have not finished my answer.

Q. That answers the question. I don't care for a long speech in answer.

Mr. DUNNE. Go ahead and finish your answer.

WITNESS. The rates from San Francisco to points in eastern
7529 Washington and Idaho should properly be made on exactly the same basis as we are making rates today from San Francisco to points in Oregon. But they are not, although they ought to be.

Q. And the reason they are not is because there is competition there with a company that you do not control, isn't it?

A. Well, the competition is largely——

Q. Isn't that true? yes or no.

A. I am going to answer the question as I think I ought to answer it. It is the result of competition created by steam schooners plying between San Francisco and Puget Sound.

Q. And not by reason of another rail line reaching these points? That has nothing to do with it—the fact that the Northern Pacific rail line reaches the points has nothing to do with it? Do you mean that?

A. I mean that, yes.

Q. Then you have a working arrangement, have you, with the Northern Pacific, the same as you have with the other line?

A. What do you mean by a "working arrangement"?

Q. An agreement that you won't cut rates on them and they won't on you.

A. We have no agreement with the Northern Pacific.

Q. Have you any understanding of any kind with them?

A. We discuss these matters. I won't even say that there is an understanding about it.

Q. You said a moment ago, in answer to Mr. Dunne, that your lumber rates were the same, and always had been the same, to eastern points, from the Willamette valley, as from Portland proper, didn't you?

A. No, I didn't say that.

7530 Q. What did you say?

A. I said that the Portland rates were established on lumber from the Willamette valley to the territory of Utah and east, when the Portland gateway was opened to lumber.

Q. Prior to the time you speak of the Portland gateway as being opened isn't it a fact that rates over the Southern Pacific from the Willamette valley to points east of Ogden, on lumber, were always maintained as a competitive measure at the same figure as the lumber rates over the O. R. & N. from Portland and points near Portland, east there, on the O. R. & N.?

A. No, sir; that is not so.

Q. When were they different?

A. They have been different to Utah——

Q. I will ask you, previous to——

Mr. DUNNE. Finish your answer, Mr. Miller.

Mr. SEVERANCE. Just a moment. I want to make my question definite.

Q. I will ask you to state any instance, previous to the amalgamation of the Southern and Union Pacific roads in 1901, when those rates were different.

A. Previous to 1901 the Southern Pacific carried no rates on lumber whatsoever to the territory east of Colorado. They were established about 1900—not before that—to Kansas and Nebraska and to Chicago in connection with the Union Pacific Railroad only. They remained in effect to Chicago for ten days, and to Kansas and Nebraska for about sixty days, but prior to that time the Southern Pacific carried no rates on lumber to the territory east of Colorado.

7531 Q. I was asking about territory east of Ogden. They had rates to Denver and Colorado common points, didn't they?

A. They had to Denver and Colorado common points.

Q. How did those rates compare with the rates over the O. R. & N. and the Union Pacific to Denver and Colorado common points?

A. I think to Denver and Colorado common points they carried the same rate.

Q. They always carried the same rate, didn't they, so far as you know?

A. No, I know they did not carry the same rate to Utah.

Q. I am speaking of Colorado points. I said "points east of Ogden."

A. I am speaking of points east of Ogden.

Q. They didn't carry the same rate to Salt Lake City?

A. No, they did not for some time.

Q. Well, when?

A. Along about 1897, 1898, 1899, 1900——

Q. Was not the rate in 1900 exactly the same to Salt Lake City——

A. I had not finished my answer.

Mr. DUNNE. Go ahead, Mr. Miller.

WITNESS. I said, somewhere about 1897, 1898, 1899 or 1900, the rates from the Willamette Valley and from Portland, to Utah via the Southern Pacific, were higher than they were via the Huntington route.

Q. When? What parts of those years?

A. I cannot give you the dates. It is not in my mind.

Q. As an ordinary proposition, were not the rates the same?

A. The rates were not the same all the time to Utah.

Q. I say were they not ordinarily the same? You know what the word "ordinarily" means? Were they not usually the same?

7532 A. You are talking about territory east of Ogden. Now, I am telling you that during some periods the rates to Utah were not the same as they were over the O. R. & N. line. To Colorado common points I think they were the same. To the territory east of Colorado they had in rates to Chicago for ten days only, and to Kansas and Nebraska for about 60 days only.

Q. I heard you speak of that. I heard that. I will put a definite question to you. Wasn't it the fact that ordinarily the rates from the Willamette valley by the Southern Pacific by Roseville and the Denver & Rio Grande to Salt Lake City were the same as the rates from Portland via the O. R. & N. and the Short Line to Salt Lake City, on lumber?

A. I cannot answer that question either yes or no, because in some cases they were the same and in other cases they were not the same.

Q. You know what the word "ordinarily" means, don't you?

A. Yes; but I don't like to use it.

Q. Have you access to tariffs that would show that fact?

A. I don't think we have, here in New York. It is possible that I have some data showing those dates.

Q. Isn't it a fact that if the mills on the line of the O. R. & N. were to compete on even terms with the mills on the Southern Pacific in the Willamette valley, it was essential that the rates be the same by the two lines; isn't that true?

A. The O. R. & N. mills were at no disadvantage. If there was any disadvantage it was to the disadvantage of the mills on the Southern Pacific.

Q. It would depend on which way the rates were higher.

7533 I said if the mills in the same territory were to compete, it was necessary to have the same rates, wasn't it?

A. If they were to compete on an equal basis of freight rates, certainly.

Q. Wasn't it the policy, both of the Southern Pacific and of the O. R. & N. and Short Line, to place their customers, whose mills were located on their lines, upon a parity at Salt Lake City and at Colorado common points——

A. It was.

Q. ——and wasn't that the reason why, as you have said, the rates were the same to Colorado common points by the two routes?

A. It was the policy of the Navigation Company to do that; but it apparently was not the policy of the Southern Pacific to do it—because they did carry higher rates in some instances and in some territory didn't carry any rates at all.

Q. I am asking you now about Salt Lake City and Colorado points.

A. That is what I am speaking of.

Q. I will ask you, then, about Colorado points alone. There they carried the same rates, didn't they, as you have said?

A. Yes, I think they did. I don't know of any cases where the rates were dissimilar.

Q. So that the merchants manufacturing lumber along the Willamette valley on the Southern Pacific were enabled to compete on equal terms in the Colorado common points with the merchants manufacturing and selling lumber from the O. R. & N. territory; that is true, isn't it?

The question was read.

WITNESS. Well, you start out the question "So that."

Q. Well, leave out "So that," if you object to the form of
7534 my question.

A. I don't think your question is complete, that is all.

Q. I thought it was quite complete.

Mr. SEVERANCE. Cut out the "So that."

WITNESS. Now, read the question.

The question was read.

WITNESS. I think you will have to reframe the question.

Mr. SEVERANCE. Just say that Mr. Miller is unable to understand the question, and let it go at that.

Q. You wish it understood, do you, that you cannot answer the question—that you don't understand it?

A. I don't think your question is clear.

Q. You don't understand the question? Do you say under oath that you don't understand the question?

A. As he read it, no. I don't understand that question.

Q. All right. We will drop it there, if you don't understand that question.

A. I would like to answer your question——

Mr. DUNNE. You told him you wanted it clear, Mr. Miller. Just let it go at that.

Mr. SEVERANCE. Mr. Miller doesn't understand it. I don't want him to answer anything he doesn't understand.

Q. Was the movement of lumber quite substantial into Colorado common points from Portland and vicinity?

A. Yes, via the Huntington route.

An adjournment was then taken until the morning of Tuesday, March 1, 1910, at 10:30 a. m.

7535 ROOM 720, CUSTOM HOUSE, NEW YORK CITY,
Tuesday, March 1, 1910, 10:30 a. m.

The hearing was resumed before the special examiner, Hon. Sylvester G. Williams, at the above time and place.

Present: On behalf of the Complainant, Mr. C. A. Severance, Mr. G. E. Husted; on behalf of the Defendants, Mr. Peter F. Dunne and Mr. N. H. Loomis.

R. B. MILLER, recalled.

Cross-examination resumed by Mr. SEVERANCE.

Q. Mr. Miller, what are Utah common points to which the same rates apply?

A. Ogden, Salt Lake; I think Provo.

Q. And intermediate points?

A. Yes, sir.

Q. When you got up your statement of the lumber traffic between Portland and Utah points, why didn't you put in all the Utah common points? Why did you confine it to Salt Lake and Ogden?

A. We prepared two statements, one showing the tonnage to Ogden and Salt Lake separately, and another statement showing the tonnage to points on and via the Rio Grande line.

Q. The rates are the same to all these common points to Utah, aren't they?

A. Yes, I think so.

Q. That is the reason I would like to know why you eliminated Provo and the intermediate points between Provo and Salt Lake City—and between Salt Lake City and Ogden, for that matter. Why did you eliminate all of them? Was it for the purpose of minimizing this competitive business so far as you could?

7536 A. No. The statement was asked for only as to Ogden and Salt Lake, and as to points on and via the Rio Grande Western lines.

Q. Who asked for it?

A. The counsel asked for it.

Q. Who?

A. Mr. Dunne.

Q. And there was no request made upon you, then, to furnish a complete statement of the competitive business into Utah common points, but only into Ogden and Salt Lake?

A. The request was for a statement of the tonnage and the revenue to Ogden and to Salt Lake and to points on and via the Rio Grande Western lines, which, of course, would take in everything on the Rio Grande line east of Ogden or Provo.

Q. East of Ogden or Provo?

A. Yes.

Q. But did it take in the Provo business?

A. Yes.

Q. Have you that statement with you?

A. Yes, sir.

Q. Let me see it, please.

A. I just have the figures.

Q. You have no data upon which they are based?

A. Yes.

Q. Let me see the data.

A. I have here the figures showing the movement of lumber for the years 1899, 1900, and 1901 to points on and via the Rio Grande lines via Huntington, and would be glad to give you the figures if you wish.

Q. Have you the same figures via Roseville?

A. No, sir. But I think those figures are already——

Q. Just a minute—I will ask you a question. I will ask you to give me those figures that you say you have, showing the movement by the O. R. & N. and the D. & R. G.

A. This is a statement of the tonnage of lumber moving from Portland to points on and via the Rio Grande lines via Huntington. The year 1899, 5,852 tons.

7537 Q. Wait a minute. I want to be certain just what that includes. That includes everything that is interchanged between the O. R. & N., Short Line, and the Rio Grande?

A. Lumber from Portland.

Q. That is what I mean. I mean all that lumber which is delivered to the Rio Grande——

A. Yes, sir.

Q. ——at either Ogden or Salt Lake City.

A. Yes, sir.

Q. Or Provo?

A. Yes, sir.

Q. Go ahead.

A. 1899, 5,852 tons. 1900, 14,106 tons. 1901, 11,436 tons.

Q. Have you the O. R. & N. and Short Line revenue?

A. Yes, sir.

Q. Give me that, please?

A. 1899, $30,819.44——

Q. Is this combined revenue of the O. R. & N. or——

A. This is the Short Line and Navigation revenue.

Q. Combined?

A. Combined. 1899, $30,819.44. 1900, $67,461.88. 1901, $55,937.61.

Q. Have you any statistics whatever to show the movement by the Southern Pacific from Portland to points on the Rio Grande?

A. No, I have not; but my recollection is that those figures were given by Mr. Stubbs in his testimony.

Q. You haven't them with you?

A. No.

Q. Have you the statistics showing the movement of lumber from Portland (I am confining this question to this same point you have testified to, that is, Portland itself) over the O. R. & N., the Short Line and the Union Pacific to Colorado common points?

A. No, sir.

Q. Have you figures showing the movement by the Southern Pacific and the Rio Grande from Portland to Colorado com-

7538 mon points?

A. No, sir.

Q. Have you statistics showing the movement of lumber from the Willamette valley or from points in Oregon south of Portland which take the Portland rate, the traffic moving by the Southern Pacific by Roseville and thence by the Rio Grande? I am speaking of lumber now.

A. We have that information showing the movement via Ogden, but it is not segregated as between the Rio Grande and the Union Pacific lines.

Q. Well, let me have it, without being segregated, then.

A. For what period would you like it?

Q. All the period you can give me.

A. The movement of lumber from Southern Pacific points in Oregon to Utah and Colorado via Roseville was as follows: 1894,

219 cars; 1895, 1,067; 1896, 1,455; 1897, 1,157. Subsequent to 1897 the figures which I have include the movement to California; they are not segregated as between California, Utah and Colorado.

Q. Have you the figures previous to 1897, to California, segregated so we can get some kind of an idea of the proportionate amount?

A. No, I don't think there was any movement to California prior to 1897.

Q. How did you get these figures subsequent to 1897, where it is all combined?

A. They were found in the office of the district freight agent of the Southern Pacific Company at Portland, showing the movement of lumber south through Ashland, and they were not segregated as to territory.

Q. It would be rather indefinite then, wouldn't it? But I think you might as well give them to me anyway.

A. The figures that I shall now read to you are the lumber
7539 shipments from Southern Pacific points in Oregon to Utah, Colorado and to California.

Q. Yes, I understand. That is from 1898 on.

A. 1898, 2,168 cars; 1899, 3,954; 1900, 6,578; 1901, 7,048.

Q. Could you go any further?

A. Well, subsequent to that the figures cover only the California business.

Q. You have no figures covering the other?

A. After that time, after 1901, the Utah and Colorado business moved via Portland.

Q. Yes, that is right, of course. That is after you took charge?

A. Yes.

Q. Just give me the California movement, then, after that.

A. In 1902 the movement to California was 7,559 cars; 1903, 4,914; 1904, 4,284; 1905, 5,240; 1906, 6,245; 1907, 5,443.

Q. You haven't 1908 or 1909?

A. No, they are not here. I have not the figures subsequent to 1907. Now, it was not until 1898 that the Southern Pacific established rates on lumber to California. They had in rates to Utah and Colorado. But the rates to Utah via the Southern Pacific at that time were 40 cents per 100 pounds, while the rates via the O. R. & N. Company were 37-1/2 cents per 100 pounds.

Q. That was in the year 1898?

A. Yes.

Q. What period did that cover?

A. That covered the period from 1897 to 1900.

Q. What time in 1900?

A. December 1, 1900. The rate via Huntington was then made 40 cents.

Q. As I understand you, from 1897 to December 1, 1900, the rate by the Southern Pacific to Utah common points, that is,
7540 from points in Oregon south of Portland, was 40 cents?

A. Portland and points south.

Q. Oh, Portland and points south?

A. Yes.

Q. All points?

A. Yes.

Q. To Utah common points, was 40 cents; and the rates on the O. R. & N. both from Portland and points east of Portland were 37½?

A. Yes, sir.

Q. And December 1, 1900, they were put on a parity of 40 cents?

A. On December 1, 1900, the rates from Portland via the O. R. & N. Company were advanced to 40 cents.

Q. That is what I say; they were put on a parity?

A. Yes.

Q. That rate was raised to the same as the Southern Pacific?

A. Yes, they were made the same. That is merely in confirmation of what I said yesterday.

Q. Yes, I understand. Now, what was the rate during the same period of time, from Portland and points south of Portland on the Southern Pacific, and points east of Portland on the O. R. & N., on lumber, to Colorado common points.

A. 40 cents via both routes.

Q. How far south in Oregon on the Southern Pacific did that rate apply—all through to Ashland?

A. Later it did, but when it was originally established it was confined to the points from which the lumber was apparently shipped, and then extended as——

Q. As the mills developed?

A. As the business developed.

Q. But it covered all the lumber points—or was intended to?

A. Yes.

Q. And the O. R. & N. rate, the same rate, went east from
7541 Portland to the various lumber producing points?

A. Yes.

Q. Did I understand you correctly that this last series of figures that you gave, cover only the Southern Pacific movement south of Portland? That is, 1894, 219 cars, and so on down. You said after 1898 it included California, also.

A. That includes Portland and points south.

Q. Can you give me the statistics for the same period, of movement over the O. R. & N. to Utah and Colorado points, from Portland and the points east thereof which took the same rate?

A. No, I haven't those figures with me. They are compiled, however, and can be furnished.

Q. Where are they—in Portland or here?

A. They are in Portland.

Q. Is there some business westbound between Colorado and Utah points and Portland?

A. Yes, sir.

Q. You did not give the statistics on that, did you?

A. No.

Q. Have you them?

A. No, we have not. That business is so small, however, as to be practically negligible.

Q. However large or small it may be, you have not the figures?

A. No. Practically negligible, outside of the business of the Colorado Fuel & Iron Company.

Q. They manufacture iron and steel, don't they?

A. Yes.

Q. Any coal movement up that way?

A. Yes, there is, but it is very very small from Colorado.

Q. In your testimony yesterday (at page 7512, if you want to look at it)——

A. Oh, Mr. Severance, the figures of the lumber movement for 1894, 1895, 1896, and 1897, which I said included the business to Utah and Colorado, also include Nevada.

Q. You testified yesterday with reference to what you called
7542 the "approximate carload movement from eastern points to Portland" in 1898. I am reading your answer now. "In 1898 the movement via Ogden and Roseville was 298 cars, while the total movement via all lines, to Portland was 4,214 cars. The Southern Pacific percentage via Ogden and Roseville, 7 per cent. In 1899 the movement was 251 cars via Ogden and Roseville, and 4400 cars via all lines; Southern Pacific percentage via Ogden and Roseville 6 per cent. In 1900 the movement via Ogden and Roseville was 265 cars; via all lines 4400; Southern Pacific percentage 6 per cent." Why didn't you include in that statement the traffic moving by the Sunset Route to Portland? That is Southern Pacific business via Roseville, isn't it?

A. Yes.

Q. Have you the figures on that?

A. Yes, I have the figures via Sunset Route.

Q. All right, let's have those for those years.

A. That is to say, the figures I shall now read to you are the carload movement via all routes other than the Ogden route and Southern Pacific.

Q. How is that?

A. It includes business via El Paso and via Mojave; in other words, Southern Pacific routes other than via Ogden.

Mr. DUNNE. Then it is not exclusively Sunset, is it?

WITNESS. No.

Q. Well, let's have what you have got.

A. 1895——

Q. I want it in the same years that are covered by this statement. I want to tack it on to this statement, which is for the years 1898, 1899, and 1900.

A. 1898, 182 cars.

Q. That is Mojave and El Paso. Go ahead.

7543 A. 1899, 146 cars. 1900, 151 cars.

Q. Those are the same three years that these statistics apply to?

A. Yes, sir.

Q. Can you tell what percentage that is of the total movement into Portland?

A. Yes, it can be figured out.

Q. You haven't it figured now?

A. No.

Q. Well, we won't stop to compute it. Now, those figures, both the ones you gave yesterday showing the movement by Roseville and these additional figures on traffic moving by the Southern Pacific, cover only traffic to Portland proper, do they?

A. Yes.

Q. That is all?

A. Yes—Portland and East Portland.

Q. Well, East Portland is part of the city?

A. Yes.

Q. It is across the river?

A. Yes, sir.

Q. Where is Albina?

A. Albina is on the east side of the Willamette River, about three miles below East Portland.

Q. Did these figures of yours include business moving to Albina?

A. I think they would.

Q. Do you know?

A. No.

Q. They do not include business destined to any points in the Willamette valley south of Portland taking the same rate, do they?

A. No.

Q. They don't include business moving to any points outside of Portland on the north, taking the same rates?

A. No.

Q. They do not include business moving to points on the Columbia River that are reached by the O. R. & N. boats and also by boats running in connection with the Southern Pacific?

A. No.

Q. Do they include less than carload business?

A. They do not.

7544 Q. In no case?

A. In no case.

Q. You gave yesterday some statistics on the carload movement from San Francisco to Portland in 1898, which you said consisted of 144 cars. Do you find your notes of that?

A. Yes, sir.

Q. Where did you get those figures?

A. Those figures were obtained from the office of the district freight agent of the Southern Pacific Company at Portland.

Q. Isn't it the fact that at that time and at all times the largest movement from San Francisco to Portland by rail has been less than carload?

A. No.

Q. Are you sure?

A. Yes, sir.

Q. Hasn't there been a very substantial L. C. L. movement to Portland from San Francisco?

A. There has not been by rail.

Q. That is what I am speaking of—by rail.

A. No, there has not been.

Q. How is it to points in the Willamette valley south of Portland?

A. Well, there is some movement from San Francisco to points south of Portland, by rail.

Q. The merchants in San Francisco wholesale into that territory, don't they?

A. They do to some extent; to a limited extent.

Q. The 144 cars concerning which you testified covered only the movement to Portland proper?

A. Yes.

Q. And did not cover the movement to points south of Portland which were reached by the boats of the O. R. & N.?

A. No.

Q. And of course did not cover any L. C. L. movement, however large or small that may have been?

7545 A. No.

Q. In your testimony, yesterday, you also gave the northbound carload movement for the year 1908 from San Francisco to Portland, amounting to 640 cars. That statement is to be limited, I suppose, the same as the other; that is, it is business to Portland proper and it is exclusively carload business?

A. Exactly so.

Q. Have you the statistics for the year 1909?

A. I have not.

Q. Why didn't you get them?

A. No particular reason.

Q. Why did you get 1908?

A. Just to show what the carload business is at the present time.

Q. 1908 is not the present time; 1909 is nearer to the present time, isn't it?

A. Well, 1909 is not the present time, either.

Q. Well, it is nearer, I say; I didn't say that it is the same time; I said it is nearer, isn't it, than 1908?

A. Yes, one year.

Q. Have you any other reason or excuse for not giving 1909 except the one you have made?

Mr. DUNNE. I don't think the witness is giving excuses, and I don't think you ought to use that word.

Mr. SEVERANCE. Strike out the word excuse.

The question was read with the word "excuse" omitted.

A. No.

Q. You stated in connection with that movement, that tin cans were not desirable freight and that it was not practicable to carry

them in bulk on an ocean steamer. Isn't it a fact that
7546 tin cans have been carried at all times by boat to the canneries on the Columbia River?

A. Yes, sir, but they have always been in crates.

Q. But they have been carried by boats?

A. Yes, sir, but in crates.

Q. Always in crates?

A. Yes.

Q. Brought up from San Francisco?

A. Yes; they have been brought up from San Francisco in crates.

Q. And taken from Portland to the canneries, when they arrived in Portland, in cars, weren't they?

A. Well, if any such arrived in Portland in cars, they would be taken to these river points by boat, yes.

Q. We have evidence that that is the fact. You testified yesterday that for a number of years prior to 1900 joint rates had been in effect to points reached by the Southern Pacific lines in Oregon, on traffic to and from the east in connection with the rail lines out of Portland, didn't you?

A. Yes, sir.

Q. Covering everything except lumber?

A. Yes, sir.

Q. That included the hop business?

A. Yes.

Q. And the wool business?

A. Yes.

Q. Previous to 1901 your company—you were then connected with the O. R. & N., weren't you?

A. Yes.

Q. —were working the hop traffic out of the Willamette valley, were you not, actively?

A. Yes.

Q. And did you work it exclusively by your boats to Portland, or also by rail over the Southern Pacific lines to Portland, and thence east over your lines?

A. We worked it by both routes.

Q. And the Southern Pacific at that time was working the
7547 hop business and the wool business preferentially by the Sunset Route, wasn't it?

A. Yes, sir.

Q. The Northern Pacific had rates in there the same, didn't they,—joint rates?

A. I think so.

Q. And they were working that traffic out of the Willamette valley, were they not?

A. Yes.

Q. Have you any figures with you showing the movement of wool and hops to Atlantic seaboard points out of the Willamette valley and Portland for any years?

A. I can give it to you approximately as to the hops.

Q. For what years can you give it to me approximately?

A. For the year 1899 the movement of hops from the Willamette valley via the Southern Pacific was 35,000 bales via Sunset, and 32,000 bales via Ogden. In 1900 the movement via Sunset was 47,000 bales and via Ogden 22,000 bales. Those are the only two years that I have.

Mr. DUNNE. Are you speaking of the entire Willamette valley?

A. Yes.

Q. Are you able to divide that movement as between points in the valley reached by the boats of the O. R. & N. Company from the points higher up?

A. Only by the statement that approximately 10 per cent of the Willamette valley hop crop moves by Willamette steamer to Portland.

Q. That was not what I asked you. I understood you to testify to that yesterday—that about 10 per cent was brought down by the boats?

A. Yes.

Q. But by that you don't mean to testify that only 10 per cent were so tributary that they could have moved by the boats, do you?

A. No, I do not.

7548 Mr. DUNNE. I think we have those figures for you; we shall have them for you.

Q. How many bales in an ordinary carload?

A. At the present time about 100.

Q. What do they weigh—200 pounds practically?

A. We estimate about 180 to 185 pounds to the bale.

Q. And you get about 100 bales in a car?

A. Yes, in our large cars.

Q. What did you get in the size of cars that were in use in 1899 and 1900?

A. It was something less than that.

Q. Can you give about the number?

A. It would be merely a guess. I should say about 80 bales.

Q. Have you statistics as to the wool movement out of the Willamette valley at that time?

A. No, I have not. There is very little wool relatively produced in the Willamette valley.

Q. That is, relative to eastern Oregon, you mean?

A. Yes, relative to eastern Oregon. You can put it at three or four million pounds, possibly five millions, for the entire Southern Pacific lines in the State of Oregon.

Q. You testified yesterday with reference to the movement of business between San Francisco and Portland by boat, and that your ships in those days ran every 5 days. Didn't they at times run oftener than every 5 days?

A. Not at that time, except that occasionally an extra steamer was put on to take care of the surplus freight traffic.

Q. Those steamers carried passengers as well as freight, didn't they?

A. The regular steamers, yes.

Q. The two regular steamers?

A. Yes.

7549 Q. And their service was a 5-day service?

A. Yes.

Q. What is your service now?

A. Once every 7 days.

Q. How long is it that you have been giving that less frequent service by ship?

A. About two years.

Q. The Southern Pacific at all times ran daily freight trains—I will not say, at all times, but from 1897 on?

A. Between what points?

Q. Between San Francisco and Portland. I don't mean that a train got through in a day; but they started a train out every day—the train was scheduled.

A. I don't know whether that is so or not; they may and they may not.

Q. You don't know?

A. No.

Q. They do now, don't they? Don't you have a regular freight train between the two places?

A. Yes, but I don't know whether they send a train out every day with freight for Oregon points.

Q. Well, it takes all kinds of freight that is offered?

A. Yes.

Q. The cars in that train get through to Portland or go to points beyond Portland?

A. Yes.

Mr. DUNNE. They go to California points, too, don't they?

WITNESS. Undoubtedly.

Q. Undoubtedly. They take everything that is offered?

A. Undoubtedly they start a train out of San Francisco, carrying freight for all points in that direction, north, although I am not posted about that; I don't know.

Q. You start a train out every day from Portland carrying freight for all points south?

A. Yes.

7550 Q. You have no doubt, have you, that your colleagues in San Francisco are equally diligent in starting out a train?

A. I think it is reasonable to suppose that they do. But as to the fact I don't know.

Q. The sailings, you say, were every five days, and sometimes an extra ship. When was the differential established between the O. R. & N. boat line and the Southern Pacific rail line concerning which you testified?

A. About 1898.

Q. Was that established at the conclusion of the rate war?

A. Yes.

Q. And has the differential been maintained at the same scale ever since?

A. It has been maintained to an extent only; that is to say, the Southern Pacific Company does not undertake to make all of its rates between San Francisco and Portland on this fixed differential higher than the rate by water. It does in some instances, and in other instances it does not.

Q. Can you give the exceptions?

A. Where it does not, it is because the rate would be lower than it cared to make.

Q. Can you give the exceptions?

A. No, I have nothing here to show what they are; but there are such cases.

Q. Can you give any of them? Can you remember any of them—any commodity?

A. Yes, I think salt is one.

Q. What is the rate on salt by the steamers?

A. My recollection is that their published rate is a dollar and a half a ton.

Q. What is the rail rate?

A. The rail rate must be 15 or 18 cents a hundred pounds, something of that kind. It is considerably higher.

Q. That would be $3 to $3.60 a ton. Do you recall any other
7551 commodity?

A. No, the other commodities are not in my mind. But there are a number of such commodities.

Q. The less than carload business, of course, all moves on the class rates, doesn't it?

A. Yes, by rail.

Q. That is what I mean—by rail.

A. But not by water.

Q. But the general merchandise, ordinary merchandise, moves on this differential, doesn't it, by the two lines, except in some sporadic cases, like salt, where there may be a difference?

Mr. DUNNE. He didn't say "sporadic" cases. He said there were a number of such cases.

Mr. SEVERANCE. Strike out "sporadic," if it is unpleasant for him.

Mr. DUNNE. It is not unpleasant. It is a classical word. It is a little bit unfair, though. I don't like you to color his testimony in your subsequent questions.

Mr. SEVERANCE. You know I don't mean to be unfair.

Mr. DUNNE. You do it unconsciously of course; still it gets into the record, that is all.

Mr. SEVERANCE. I am glad to have that eulogy from you in the record. Cut out "sporadic," and answer the question.

A. No, on the less-than-carload or merchandise business, that differential is not always observed. The Southern Pacific class rates

between San Francisco and Portland are on a scale of 51 cents first-class. The San Francisco & Portland Steamship Company carries merchandise, so-called (they use that expression or that term) at a rate of 35 cents per 100 pounds.

Q. Well, merchandise means what—what class?

A. Merchandise is a term that is not classed.

7552 Q. What kind of commodities does it cover?

A. As applied by the steamship company, it covers everything that is not otherwise specified in their tariff.

Q. That is, all kinds of general stuff, no matter what the classification may be by rail?

A. Yes, unless it was otherwise specified in their tariff.

Q. Have you a copy of their tariffs here?

A. No, I have not.

Q. You say that the rail rates are made up on the scale of 51 cents first-class?

A. Yes.

Q. What is the recognized scale-down of rates? Starting, we will say, with 51 cents, there is a regular scale-down, isn't there?

A. Oh, yes.

Q. Observed by all roads?

A. Yes. But the relation between the classes is different on different roads.

Q. Take the western classification.

A. Western classification would not make any difference.

Q. The western classification would fix the commodities that are in the different classes, wouldn't it?

A. Yes, but it would not fix the relationship between the classes.

Q. Let me put some specific questions to you. It appears by Complainant's Exhibit 81–K, at page 881 of the record, being a statement showing the changes in class and commodity rates from Portland to San Francisco, from February 10, 1898, down to July 1, 1908, down to the time when the statement was made up, (December 29, 1908) and also by Complainant's Exhibit 81–J, which is a comparative statement showing changes in class of commodity rates from San Francisco, California, to Portland, Oregon, from February

7553 10, 1898, that outside of the first two classes, there has been a very distinct increase in the class rates from San Francisco to Portland and from Portland to San Francisco, also a distinct raise in the commodity rates, since the unification of these two lines in 1901. Why was it that you made the changes in classes 3, 4, 5, A, B, C, D and E, raising those rates, and left the first and second classes as they were—51 and 41? On the 26th of September, 1901, class 3 was raised from 31 to 36 cents, and class 4 from 26 to 31 cents; class 5 remained the same, 18 cents, and the other classes were unchanged. On July 15, 1905 (that is about the time you got charge of both lines up there) class 3 was raised from 36 cents to 41 cents, making it the same as class 2, and class 4 was raised from 31 cents to 41 cents; class 5 from 18 cents to 28 cents; class A from 23 cents to 28 cents; class B from 23

to 28; class C from 18 to 28; class D from 18 to 28; and class E from 18 to 28; and those have been the rates from that time down to December 29, 1908. Now, what was the reason for advancing those lower class rates, beginning with class 3, which has been advanced since 1901 10 cents—from 31 to 41; class 4, which has been advanced from 26 to 41—15 cents; class 5, advanced from 18 to 28—10 cents; class A from 23 to 28—5 cents; class B likewise; class C from 18 to 28—10 cents; class D from 18 to 28—10 cents; and class E from 18 to 28? What was the reason for advancing those rates and leaving the others stationary?

A. One reason is that the rates on those lower classes were too low. The distance from San Francisco to Portland is 746
7554 miles, and here is a scale of rates on the basis of 51 cents first-class—lower than the rates from Chicago to St. Paul for 400 miles; and they are even relatively lower than the rates from New York to Chicago. So I say that one of the answers is that the rates on those lower classes were lower than they ought to have been.

Q. You spoke about the relation between rates; you said that they were different on different lines of road. You speak of a 51-cent scale of rates, 51 cents first-class. As I understand you, then, that really does not mean anything, does it, if there is no recognized percentage of scaling down?

A. It means this: that when you speak of a 51-cent scale of rates first-class, you know that that is the highest one of the class rates, and the others are scaled down.

Q. Yes, but as to the percentage they are scaled down it does not indicate anything, as I understand it?

A. No—Well, I won't say that it does not indicate anything; but the relation between those classes varies on different roads and in different territories.

Q. What was the reason that these lower rates which you say were too low have been put in force?

A. I don't know why. I think these rates today are too low.

Q. Have you raised them since December 29, 1908?

A. No.

Q. You have raised some of your commodity rates since, haven't you?

7555 A. It is possible that some of the commodity rates have been changed, although I can't say about that; I don't know.

Q. What I wanted to get at particularly was, that when you speak of a 51 per cent scale, 51 per cent first-class, that does not indicate anything as to the lower classes, except that 51 per cent is the maximum?

A. Yes.

Q. They are not above that; that is right, isn't it?

A. Yes, I think that is right.

Q. Now, the bulk of the traffic moves under those lower classes, doesn't it?

A. The bulk of the traffic, I should say, would move under third, fourth and fifth class, on commodities taking class rates.

Q. A great deal moved on commodity rates?

A. Yes. I think on the Southern Pacific line between San Francisco and Portland, most of the traffic moves under commodity rates which are considerably lower than the class rates.

7556 Q. I notice that canned goods, carload lots, up to July 10, 1904, moved at a 15½ cent commodity rate—well, up to July 15, 1905, and then was put up to 18 cents. Is that rate still in force?

A. I think so. I think that is one of the commodities, too, where that differential you spoke of is not observed.

Q. What class did the canned goods take?

A. Fifth class in carloads, fourth class in less than carloads.

Q. They take now the same rate that fifth class took prior to the time you hoisted the rates in 1905—18 cents?

A. Yes.

Q. You put up the class rate then to 28 cents—10 cents more?

A. Yes.

Q. Dried fruits, I see, were put up at the same time—15½ cents to 18 cents. What class do they take—fifth class?

A. Fourth class in carloads.

Q. What class do they take in less than carloads?

A. Second, I think. Some classes of dried fruit take third.

Q. Do you think that those rates which you regarded as too low, those lower class rates, were put down by stress of water competition?

A. All the rates between San Francisco and Portland by rail are controlled or influenced or are made as the result of water competitive conditions.

Q. And always have been since you have known anything about the business?

A. No, because originally the Southern Pacific put in rates from San Francisco to Portland that were very much higher than these rates; so high in fact that they did not come anywhere near meeting the water competition, and I do not suppose they started out with the idea of meeting water competition, because at one time

7557 they had a scale of rates on the basis of $1 first class.

Q. They afterwards put in their low rates to meet water competition, during that rate war, didn't they?

A. Yes.

Q. Then, you think that the rates that were put in at the conclusion of the rate war were put in at what you regard as too low a rate, by reason of water competition?

A. Well, I say——

Q. You say influenced by water competition?

A. Yes, they are today. I think these rates are too low—not that they are lower than necessary to meet water competition, in fact they are too high to meet water competition, but they are too low for the service that is involved between San Francisco and Portland.

Q. And you think that they are still influenced by the water competition?

A. Oh, yes.

Q. Kept down. That is what I understood you.

Mr. DUNNE. They do not get the business?

WITNESS. No, they do not get the business.

Q. Now, it is a fact, isn't it, that for several years previous to 1901, the O. R. & N. Company, with which you are connected, subsidized the only other regular line, that is, line of steam schooners, between San Francisco and Portland, to induce them to maintain rates?

A. I do not like the word "subsidy" or "subsidized".

Q. Then I will amend my question, as I always do to make it comfortable for you. Tell me what word to use and I will put it in.

A. The Navigation Company bought space in the steamers of these other lines and filled that space when they cared to do so.

Q. That is, they furnished a certain amount of tonnage to
7558 this other line upon condition that the other line would maintain the same rates as the O. R. & N. steamers?

A. No, not entirely so; that is not entirely correct.

Q. Well, is that partly so?

A. That is partly so. But we frequently made lower rates ourselves than our published rates on freight which we put into these steamers of the other company, in order to meet in that way, to better advantage, the competition that we found on the ocean division.

Q. Do you know Mr. Jones, the freight traffic manager of the Southern Pacific?

A. I do.

Q. Is he your superior officer?

A. He is as to Southern Pacific matters.

Q. That is what I mean. Mr. Jones was examined in reference to this matter of rates between Portland and San Francisco and I will read you what he said to see if it will modify your recollection.

(Page 593, Vol. 2, of the printed record.)

"Q. It appears by the testimony here that from time to time rates are increased or lowered between here and Portland. Under whose authority is that done? Under whose immediate direction is that done?

"A. Well, in fixing rates, we have a basis that the rate clerk has adopted for that, a basis—either a differential, higher or lower than certain rates, or a mileage basis, or a rate to the terminal and a rate back. In a change of rates, if a line were to change a rate today the rate clerk would naturally change his rate, unless he had instructions otherwise. That is how rates are generally made.

"Q. I am familiar with that fact, but I want to apply it to this particular case.

7559 "A. I could go on and say that I suppose that in any change it would be natural, if either line changed the rates, for the other to either raise or lower their rates accordingly on that basis.

"Q. Now, take the line of road over which you preside, so far as traffic is concerned, between here and Portland.

"A. Yes, sir.

"Q. Mr. Schwerin testified yesterday that he had recently raised the rates by boat between these two points, San Francisco and Portland?

"A. Yes, sir.

"Q. And he said that he presumed that the rail rates would go up, as they ordinarily do. Is that the fact—dependent upon the boat rates?

"A. That would be the natural result on account of the basis I have mentioned. Unless the rate clerk had orders otherwise he would advance the rate.

"Q. I assume that, as a matter of fact, where there are two lines such as the boat line between here and Portland, and the rail line between here and Portland, and there has by some agreement been established a differential between the two, if either party to that arrangement changes the rate, the other party, as a matter of course, changes the rate so as to maintain the same differential?

"A. That would be the natural result.

"Q. That would be the natural result?

"A. Yes, that would be the natural result.

"Q. So that if, as Mr. Schwerin testified yesterday, he found it necessary or advisable to advance the boat rate because the stevedores and longshoremen and the officers on his ships were demanding and receiving higher wages than they had theretofore received, your
7560 rail rates would go up automatically because of that fact, would they? Does that correspond with your understanding—that if Mr. Schwerin should put up his rates because the stevedores and longshoremen and officers were receiving higher wages, that the rail rates would go up automatically because of this advance?

"A. Yes, sir."

A. Yes, I think that is true, with respect to the advances.

Q. But not with respect to lowering rates?

A. Not always, because the rates today all-rail are down to practically a minimum figure, and are certainly very much lower than they would be if it was not necessary to meet this competition. There is a limit to which the Southern Pacific can go in fixing these rates between San Francisco and Portland for the all-rail service.

Q. You stated a moment ago that the rates between Portland and San Francisco were less than the rates between St. Paul and Chicago. Now, I notice you have a grain and grain products rate from Portland to San Francisco, of 20 cents a hundred; that is right, isn't it?

A. Yes.

Q. Are you aware that the rate on grain and flour from Minneapolis to Chicago is only 10 cents?

A. Yes, sir.

Q. Then, your statement is incorrect about the rates being higher, isn't it, in so far as that class of business is concerned?

A. It is with respect to that particular commodity.

Q. That is one that I happened to have in my mind. I remembered that.

A. There are others, however, where the reverse is the case—a good many of them.

Q. It is more than half as far from Minneapolis to Chicago as it is from Portland to San Francisco, isn't it?

A. Yes.

7561 Q. And still your rate on grain and grain products is double?

A. Yes, but the first-class rate from Chicago to St. Paul is 60 cents.

Q. Very little moves on that?

A. The canned goods rate is 20 cents.

Q. Here is another luminous statement. But you object to characterization, and I will change that. Here is another statement of Mr. Jones' that I will read and see if it confirms your recollection of the way the rates are made there. (Page 594, Vol. 2, printed record.) After he stated that the rate clerk would put up the rates in case the steamer rates were raised, he was asked:

"Q. Who is the rate clerk that fixes those rates? Do you know?

"A. We have several. I don't know who has direct charge of those particular rates. We have 6 or 8 of those rate clerks. They are divided up, you know, into different portions of the line.

"Q. Then, as I take it, Mr. Jones, the making of rates between here and Portland is something that involves no discretion on the part of the manager of the traffic department at all, but it is laid down as a general rule, and the rate clerk, any one of six or eight of them, wherever they happen to have jurisdiction, shoves the rate up and down automatically?

"A. Unless he is instructed otherwise, that is the understanding. You see, these rates are put in for the purpose of moving any traffic that may be tendered us. We have found by experience that it is better to have rates in force than to have our agents telegraph-

7562 ing us all the time for rates. Therefore, they are fixed, as far as possible, and the basis is fixed." Is that your understanding?

A. I think that in the main Mr. Jones' statement may be correct.

Q. Well, you didn't suppose that rates were fixed simply for convenience, as he states here? You supposed they were fixed because the law required them to be fixed, didn't you?

Mr. DUNNE. Is it worth while arguing that with the witness? You had better argue that with me later at Philippi.

Mr. SEVERANCE. No; I do not think it is. That is a very luminous statement.

Q. You spoke yesterday, in answer to counsel, in reference to taking out these rates from Hood River to points in Nevada. What is the distance from Hood River to Ogden by the O. R. & N.?

A. Approximately 819 miles.

Q. What is the distance to Ogden from Portland?

A. Approximately 885 miles.

Q. And you say from Hood River is 819?

A. 819.

Q. Now, you spoke of the towns to which the 40 cent lumber rate was published, from Portland. Hood River takes the same 40 cent rate, doesn't it?

A. It did when the rate was put in from Portland.

Q. The rate on lumber from Hood River to Ogden is the same as the rate from Portland to Ogden, isn't it?

A. Yes; that is to say, it does not exceed the Portland rate.

Q. It is the same, isn't it? Isn't that your recollection, that that is one of the points that takes the same rate?

A. I don't know whether it is or not. It may be slightly less than the Portland rate.

7563 Q. You testified as follows: "On October 21, 1905, the O. R. & N. Company published a rate of 40 cents per 100 pounds on lumber from Portland and certain Southern Pacific points in Oregon to Umbria and Lucin, Utah, which was the same rate as applied via Shasta or Roseville route. On January 17, 1907, the O. R. & N. published a rate of 40 cents per 100 pounds on lumber from Portland only, that is to say, not from points south of Portland, to Palisade, Nevada, which was the same as applied via the Shasta route." You did not intend by that to include Hood River or places east of Portland?

A. Oh, no.

Q. You simply excluded points south?

A. Points south. I said that the tariffs carried the long and short haul clause and the Portland rate applies as a maximum from all intermediate points.

Q. That is correct; I see that is in the answer farther down. Now, what is the distance from Portland to Palisade via the Shasta route?

A. I can only give it to you approximately.

Q. Do you know the distance from Portland to Ogden by the Shasta route? Then we can subtract, because you stated it was 259 miles west of Ogden.

A. Mr. Luce can give that to you accurately. I can give it to you approximately.

Mr. LUCE. 1433.

WITNESS. Portland to Ogden?

Mr. LUCE. Yes; by rail.

Mr. SEVERANCE. 1343, did you say, Mr. Luce?

Mr. LUCE. Yes.

Q. Take 259 from that. I want to get at the comparative distance. 1094 miles by way of the Shasta route to Palisade, and by the other route it would be 819 plus 259, or 1068 miles.

7564 Then, the distance to Palisade by the O. R. & N., the Short

Line and west from Ogden by the Southern Pacific, is shorter than the distance direct by the Southern Pacific, isn't it?

A. Yes.

Q. By about 26 miles?

A. Yes; it is substantially the same.

Q. A difference of 26 miles; that is substantially the same?

A. Yes.

Q. In going to Palisade by the Shasta route, you have to go over the two mountain ranges about which so much complaint has been made in the testimony—the Siskiyou and the Sierra Nevada, don't you?

A. Yes.

Q. And you have the advantage of only the climb of eastern Oregon if you ship by the O. R. & N. and the Short Line; is that true?

A. Yes.

Q. And still you force that traffic now by the Shasta route, although you are the representative of both lines there?

A. Yes. It would not make any difference in my position, however, if I was the representative of only one of them. To apply a rate of 40 cents per 100 pounds from Southern Pacific points to these points west of Ogden, and allow the Southern Pacific south of Portland 10 cents per 100 pounds, and allow it 5 cents per 100 pounds west of Ogden or thereabouts, or a total of 15 cents per 100 pounds, would leave 25 cents per 100 pounds for the service from Portland to Ogden. At that time the local rate from Portland to Ogden was 40 cents. Here we were in the attitude of making a rate of $5 a ton from Portland to Ogden on business destined to a point west of Ogden, and we were charging for the same service from Portland to Ogden $8 per ton. It seemed to me that it was an
7565 objectionable proposition, particularly when the service from Portland to these points west of Ogden could be performed entirely over one line and in one direction, while via Ogden there was a reverse movement.

Q. You say that the portion of the rate from Ogden to Palisade was 5 cents?

A. I did not refer to Palisade, because in that case the rate did not apply from points south of Portland.

Q. That is what I was getting at.

A. But take Lucin and Umbria——

Q. I know, but I was asking you with reference to the Palisade rate, and you have gone into this elaborate answer to show that 15 cents would have to come off of that rate to go to the Southern Pacific. As a matter of fact, as you have just said, that rate did not apply south of Portland, did it? So, the 10 cents that you are talking about had no application to that rate?

A. Not to Palisade, but let us discuss Palisade for a minute. Palisade is 259 miles west of Ogden. We applied there the Ogden rate of 40 cents; allowed the Southern Pacific, I think, half that service west of Ogden, 10 cents per 100 pounds, which left for the service

from Portland to Ogden 30 cents per 100 pounds, while our local rate to Ogden was 40 cents. The reverse movement was still there.

Q. Let us apply that same reasoning, Mr. Miller, to another proceeding of yours. What is the proportion of the through west-of-the-Missouri-River rate on lumber? No, we will take hops.

A. Let us take lumber, because we are talking about Palisade.

Q. I am perfectly willing to take lumber. What is the
7566 proportion of the west-of-the-Missouri-River rate on lumber accruing to the O. R. & N. for traffic moving to the east?

A. I think I know what you want. The rate on lumber to Chicago is $11 per ton.

Q. Let us reduce that to 100 pounds. That is 55 cents per 100 pounds?

A. 55 cents per 100 pounds.

Q. What did you get for hauling that lumber from the Willamette Valley over the Southern Pacific and the O. R. & N. and Short Line to Ogden?

A. Well, let us take Omaha.

Q. No, I would rather take Ogden, if you will permit me? I am conducting the examination—that is, in theory. I am not really, but I am supposed to be.

A. I have not the divisons in my mind at Ogden, that is the reason I suggest Omaha.

Q. All right, take Omaha; have your own way.

A. The proportion of that rate west of Omaha is 45 cents per 100 pounds.

Q. That is, the lines from the Missouri River to Chicago get 10 cents per 100 pounds?

A. Yes.

Q. And the lines to Omaha get 45 cents per 100 pounds?

A. Yes.

Q. What is the division of the 45 cents as between the Union Pacific, we will say, east of Ogden and the lines west of Ogden?

A. Granger would be the point of interchange with the Union Pacific instead of Ogden.

Q. Were the divisions the same?

A. We have not any divisions via Ogden because the business does not move via Ogden.

Q. If it moved via the Rio Grande it would move via Ogden, wouldn't it? You have divisions in that way, haven't you?

A. Yes, I think we have divisions with the Rio Grande.

7567 Q. I think at one time you gave these. I want to get at this theory of yours about sending it over the Southern Pacific?

A. All right. Now, where does the shipment you are talking about originate?

Q. We will assume this originates on the line of the Southern Pacific south of Portland, and it has to move now (if it goes east at all) by Portland, hasn't it?

A. Yes.

Q. You refuse to take it by Sacramento or by Roseville, don't you?
A. No.
Q. You do not have any rates in that way do you?
A. The rate is higher that way than it is by Portland.
Q. The rate is prohibitory, isn't it?
A. I don't think anybody would ship that way with the rate that is in force, but we would not refuse to accept a shipment.
Q. But that rate was arranged for the purpose of closing that gateway and bringing the business by Portland?
A. The desire was to move the business via Portland, of course.
Q. Certainly; and that was the purpose of it?
A. Yes.
Mr. DUNNE. Did you say there are no through rates via Roseville?
WITNESS. No.
Mr. DUNNE. It would move on the locals?
WITNESS. Yes.
Mr. SEVERANCE. It would only move on the sum of the locals. That would be prohibitory, of course.
Mr. DUNNE. Bro. Severance says it is prohibitory.
Mr. SEVERANCE. I think Mr. Miller will say it is prohibitory on the through shipment.
WITNESS. I do not think anybody would ship that way as
7568 against the lower rate by Portland.
Mr. SEVERANCE. Of course not.
Q. Now, we have got as far as the 45 cent rate to Omaha. Assuming that traffic moved to Omaha from Ogden in connection with the Rio Grande and its connecting lines east of Denver, what would be the proportion of the lines west of Ogden?
A. My impression is that the line east of Granger receives 16 cents per 100 pounds.
Q. Suppose it goes by the Rio Grande. I suppose in isolated cases traffic has moved by the Rio Grande.
A. It would be the same division.
Q. It would be the same division?
A. Yes. I do not think, however, the lumber rates apply from the Willamette River to Chicago via the Rio Grande lines. They have declined to join because they thought the revenue on the business was too thin.
Q. You say the 16 cents?
A. I think so, east of Granger, yes.
Q. That leaves 29 cents west of Granger?
A. Yes.
Q. Of that 29 cents west of Granger, the Southern Pacific gets 25 per cent for bringing it into Portland, as I understand you? No, they get 11-1/4 cents, don't they? They get 25 per cent of the-west-of-the-Missouri-River rate?
A. Give them 10 cents, because that is what they get.
Q. Because ten cents is their local, which is a maximum?
A. Yes.

Q. Well, give them 10 cents. That leaves you 19 cents for the O. R. & N. and the Short Line——

A. Yes.

Q. ——on that traffic, not to Ogden, but to Granger, which
7569 is farther, isn't it?

A. Yes.

Q. Having that in mind, and having a 40 cent rate from Portland proper to Palisade, out of which you have to allow 10 cents to the Southern Pacific, leaving you 30 cents, don't you think you could afford to keep in that rate?

A. The conditions are entirely dissimilar.

Q. Your earnings are 30 cents a hundred in that case as against 19 cents a hundred in the other case?

A. Yes, that is true. The circumstances and the conditions are dissimilar. In the case that you have recited the movement is continuous in the same direction and is business destined to a point beyond our immediate lines, and the rate is made 55 cents to Chicago by reason of a rate of 45 cents that is made by the Northern Pacific and the Great Northern roads to St. Paul added to the local rate from St. Paul to Chicago. If it was not for that fact, the rate to Chicago would be 60 cents per 100 pounds, but the movement is continuous, that is to say, it is in the same direction and to a point beyond our own line. The Palisade shipment is to a point on another line when routed via Ogden and is going west of Ogden in an opposite direction to which the business moved when it started from Portland or from the point of shipment, and the movement could take place from Portland to Palisade or from the Willamette Valley to Palisade over the one line—Southern Pacific, both points being on the same road and the movement being continuous, or, that is to say, in the same direction from the point of movement to destination.

Q. What have you to say to this suggestion, then: On business destined to Utah common points (I am speaking of lumber
7570 still) originating in the Willamette Valley, south of Portland, you force that through Portland and take it around by the Short Line, although you go in an opposite direction and although you turn it over to another road instead of carrying it right through on the Southern Pacific that runs there. Now what is the distinction?

A. The distinction is because Ogden, for instance, which is the most westerly point, is on the Union Pacific Railroad.

Q. Well, the Union Pacific does not figure in this thing. We are talking about the business as between the O. R. & N. and the Short Line on the one hand, and the Southern Pacific, on the other; and your excuse for taking out the rates by the O. R. & N. and back over the Southern Pacific into Nevada is that it involves the turning of the business over to a second road; and, second, that it moves it backwards part of the distance.

Mr. DUNNE. Just a moment. I think you ought not to characterize the testimony of the witness as an "excuse." You asked him for reasons and he gave them.

Mr. SEVERANCE. May I finish my question? Then you can make your objection.

Mr. DUNNE. Well, I only suggest——

Mr. SEVERANCE. It throws me out of line.

Mr. DUNNE. I suggest you pass it.

Mr. SEVERANCE. I have been very accommodating. Every question you have suggested a change in I have changed.

Mr. DUNNE. I know, but this is not the first time you have done that.

7571 Mr. SEVERANCE. Well, I intend to keep it up? If it is objectionable you will have to stand this because it is perfectly legitimate.

Mr. DUNNE. I do not think it is fair, that is all.

Mr. SEVERANCE. I disagree with you. I have not objected to your asking leading questions and putting the answers into the witness's mouth. I don't care whether you do it or not, because I intend to be perfectly fair with this witness. He is a perfectly intelligent witness, and he does not need any suggestions.

Mr. DUNNE. Now Mr. Severance, I have not endeavored to put any words in the witness's mouth, and I do not think that is a fair statement either; but the point of my objection is that in characterizing the testimony previously given by the witness in the shape of reasons you ought to abstain from characterizing it as an "excuse." I do not think that is quite proper. If you think it is, why, proceed upon those lines, and we will discuss that later.

Mr. SEVERANCE. Don't frighten me, please. I will have to begin again. This long interruption has put me out of joint.

The SPECIAL EXAMINER. Do you want the question read as far as you have given it?

Mr. SEVERANCE. I will start over again, because I cannot remember just how far I had got.

Q. You have given as the reason—my friend objects to the word "excuse"—as the *reason*—I understand that word is not objectionable——

Mr. DUNNE. Now we are on common ground.

7572 Q. ——the reason for taking out the rate to Palisade from Portland—I will make it plural; I will say the *reasons*—you have given as the reasons for taking out the rate these two: First, that the traffic had to move backwards upon itself—not in a continuous direction; and, second, that it involved interchanging the business with another line instead of moving continuously over one line. Now, why do not both of those reasons apply equally to the movement of traffic to Ogden from the Willamette Valley (I mean lumber traffic) which you force up to Portland over the Southern Pacific and then send east over the O. R. & N. and the Short Line? You move that traffic in two directions—it moves against itself, and

it is turned from one line over to the other. Now, why do not the same reasons apply?

A. No, it does not move against itself or in the reverse direction. The movement is continuous in one direction.

Q. How do you make that out? It moves north to Portland and then moves south again?

A. Yes.

Q. That is not a continuous movement in the same direction any more than it is to move it southeast to Ogden and then west to Umbria.

A. How would you get it from the Willamette Valley to Ogden unless it moved that way?

Q. Get it from Roseville.

A. What direction would it move there?

Q. It would move south and east. Now you move it back north instead of going continuously over the line on which it originates, which you seem to regard as important.

A. In one case you move it south and east and in the other you move it north and east. What is the difference?

Q. You move it north and east and south anyway, don't you?

7573 There is no need of debating that question. It is perfectly apparent that the situations are identical—it seems to me they are, and therefore I cannot see much force in your reason for taking out the rate. You may have other reasons, but we will let that go.

A. The reasons for doing it are just as I have stated to you.

Q. Now, Mr. Eccles testified at Salt Lake that he had a mill at Hood River, that he had a business built up in Nevada, and that he had a rate into Nevada of 40 cents—this rate which you took out, and he said that now in order to supply his customers in Nevada he has to ship west from Hood River into Portland and thence by the Shasta route, away around into Nevada, at an expense of 5 cents a hundred greater than his rate had been before.

A. That is correct.

Q. Why is that? You force the business from Hood River to move westerly, southerly and easterly.

A. The rate applied from Hood River only as an incident, because the rate was made from Portland and Hood River; being intermediate, the rate was not exceeded from that point. The rate was put in from Portland to assist the Southern Pacific Company or assist the shippers in moving their traffic to that territory as against the route via Shasta or Roseville because they could not take care of the business.

Q. When was that?

A. That was in 1905, when one of the rates was put in; the other was in 1907.

Q. Why could not the Shasta route take care of the business?

A. Because it could not furnish the cars or the equipment.

Q. Didn't you interchange cars freely between the different

7574 portions of your system then just as you have since? Were not your cars at home on any portion of the system?

A. Yes.

Q. Could not the Southern Pacific furnish cars as well as the O. R. & N. and the Short Line?

A. Because the Southern Pacific had to bring them up empty from California.

Q. Why couldn't it get them from you at Portland?

A. You don't think the O. R. & N. and the Oregon Short Line would haul empty cars from the east over their lines to be delivered to the Southern Pacific to move traffic originating in the Willamette Valley south via Ashland, do you?

Q. I think exactly that way.

A. Well, you are mistaken.

Q. Under the testimony in this case, the way your cars are treated.

A. You are mistaken. It is not done—except possibly in an occasional instance where the exigency of the case demands some such action.

Q. That is what I thought. How far west of Ogden are these towns you talk about—Umbria and Lucin?

A. Lucin is 112 miles west of Ogden and Umbria is 104.

Q. That would be 1241 miles, then, by the Southern Pacific Line to Lucin from Portland as against 921 by the O. R. & N. and the Short Line and back over the Southern Pacific?

A. Yes.

Q. 320 miles farther. And you think it is in the interest of moving traffic economically and comfortably and speedily in this case to force traffic over these two mountain ranges and 300 miles farther, although you think that would not be the case if the movement was clear through to Ogden?

A. My own judgment about it is that it would be very much to the interest of the Southern Pacific to move the business via Portland and Ogden.

7575 Mr. DUNNE. I suppose you agree to that also, don't you, Bro. Severance,—that the traffic should have gone by the way of Portland? Is that your idea about it also?

Mr. SEVERANCE. I am trying to find out what the theory of these gentlemen is. In one instance they testified it is absurd—Mr. Harriman testified it was absurd to move traffic over these mountain ranges. The witness says that he takes out the rate and forces it that way. He does not give any reason for it.

Mr. DUNNE. I understand him to say that he thinks it would be to the benefit of the public if that traffic had gone by way of Portland. Don't you think so, too?

Q. Then, if you thought it was for the benefit——

Mr. DUNNE. You don't answer the question?

Mr. SEVERANCE. I am not on the stand.

Mr. DUNNE. I wish I had you there.

Mr. SEVERANCE. I wish you had, for a while; I would just enjoy it. I would give you some straight dope.

Mr. DUNNE. I would ask you a few things.

The SPECIAL EXAMINER. If you gentlemen are not going to answer these questions, you had better direct your interrogatories to the witness.

Q. Mr. Miller——

A. I want to show you something——

Q. Well, wait a moment. I am still ostensibly in charge of the examination.

Mr. DUNNE. Mr. Severance, you are not examining him; he is examining you—after a fashion.

Mr. SEVERANCE. Well, there has been some question about that—whether I am or not.

7576 Q. If you have that opinion, that it would be in the interest of the public to move that traffic through Portland, why don't you move it that way, when you represent both lines?

A. I said I thought it would be to the interest—in my judgment it would be to the interest of the Southern Pacific Company to move that business via Portland and Ogden.

Q. How about the public?

A. And I also think that the public could get better service that way than they could via the other route.

Q. If you entertain the position that it is better for the Southern Pacific Company and better for the public, and you are general freight agent of the Southern Pacific, why don't you move it that way?

A. Because I do not think it was to the interests of the Navigation Company and the Oregon Short Line to do it, because of the comparison it is possible to make with the proportion that we would get of the through rate from Portland to Ogden with our local rate from Portland to Ogden, and in these times that is one of the controlling forces in the making of rates that are abnormally low—the comparison which could be used on other traffic or traffic in other territories.

Q. What did you pay the Southern Pacific for handling that traffic from Ogden to Umbria?

A. I think 5 cents a hundred.

Q. And that left you 35 cents from Portland to Ogden, didn't it?

A. Oh yes, but the stuff came from the Willamette Valley——

Q. Wait a moment. I say that left you 35 cents from Portland to Ogden?

A. Yes.

Q. Or left you 35 cents, for instance, on Mr. Eccles' business, which you make him pay a penalty of 5 cents on now as against peo-

7577 ple that manufacture in the valley? On Mr. Eccles' business you had 35 cents to yourself, the O. R. & N. and the Short Line, for moving the business to Ogden?

A. Yes.

Q. And you are content to take 19 cents on traffic that you move to Chicago, for taking it to Granger?

A. Mr. Eccles has a very large lumber trade in Ogden, Salt Lake and throughout Utah. If we can haul Mr. Eccles' lumber from Hood

River to Ogden when destined to Lucin for 35 cents a hundred pounds, why is it not natural that Mr. Eccles would expect us to haul his Ogden lumber from Hood River for 35 cents a hundred? Now on this business from the Willamette Valley to Lucin and Umbria the Southern Pacific will perform a maximum haul of 125 miles to Portland, for which it would earn 10 cents per hundred pounds, and it would perform a haul of 102 miles west of Ogden for which it would earn 5 cents per hundred pounds, or a total distance hauled of 227 miles, for which it would earn 15 cents per 100 pounds. Now, if it took the business from Portland to Lucin or Umbria via Shasta, it would haul the freight about 1240 miles——

Q. 1241, isn't it?

A. 1241—and deducting 125 miles for the service south of Portland, which it would not perform in that case, it would leave the haul from the Willamette Valley 1116 miles. Now, the difference between 1116 miles of service via Roseville and 227 miles which it would perform to Portland and west of Ogden would leave 889 miles. Now it has earned 15 cents or would earn 15 cents for this 227 miles, and it would earn 40 cents for the 1116 miles—or a difference of 25 cents per 100 pounds for a haul of 889 miles, with an empty car haul northbound and a loaded haul southbound over the Siskiyou Mountains and the Sierra Nevada Mountains. So I think there would be more net money for the Southern Pacific to haul from the Willamette Valley to Umbria via Portland and Ogden than as against the route via Roseville.

7578

Q. Who overruled your opinion?

A. Nobody overruled my opinion. I told the Southern Pacific we wanted the rates withdrawn by the Portland route.

Q. Whom did you tell? Did you tell Mr. Miller, the general freight agent?

A. No, I did not.

Q. What Southern Pacific agent did you communicate with as O. R. & N. agent?

A. I think Mr. Luce had something to say about that, and I also think that Mr. Jones had something to say about it. We disagreed as to the conditions and——

Q. That is, you did not disagree as a Southern Pacific man, did you, as to the conditions, with your colleagues on the Southern Pacific?

A. No; as I say, from a Southern Pacific standpoint I think the business would be more profitable to the Southern Pacific moved by Portland than via Ogden.

Q. It was rather awkward for you to fly in the face of your judgment as to what was the best interests of the Southern Pacific when you were general agent of the Southern Pacific, wasn't it?

A. Well, my judgment in that case didn't prevail.

Q. That is one of the duties of uniting competitive lines, isn't it? Gentlemen have to quarrel with themselves.

A. It depends on what you call one of the duties.

Q. As to the movement of traffic from Oregon City to San Francisco, speaking of paper: Some of that paper is brought down to Portland and sent down by boat, and some of it is taken
7579 by a little boat across the river to a small station and sent south by the Southern Pacific rail lines; isn't that true?

A. Yes.

Q. I want you to straighten that out because Mr. Stubbs said none of it moved by rail.

A. Well, Mr. Stubbs referred to the San Francisco paper, I take it, which is true.

Q. You gave the local tonnage between San Francisco and Portland for 1899, 1900, and 1901, together with the earnings. As I understand it, that did not purport to cover anything except business to Portland and San Francisco proper.

A. Between San Francisco and Portland; yes.

Q. Locally to both places?

A. Locally to both places.

Q. That did not attempt to cover the business that moved from Portland to points beyond San Francisco, being first taken there by boat, or business originating in San Francisco and moving beyond Portland?

A. No, it did not.

Redirect examination by Mr. DUNNE:

Q. As I understood you yesterday, in answer to Mr. Severance, there were certain points in Oregon which were reached by the Southern Pacific in connection with the O. R. & N. and which were also reached by the boat route of the O. R. & N. to Portland and its rails to the same point. You spoke of certain points that could be reached either by the O. R. & N. broken service, water and rail, Oregon points, and which could also be reached by the Southern Pacific as a connection of the O. R. & N. Were those points that were not reached by the Northern Pacific by the Puget Sound route?

A. Yes.

Q. Are there any points west of Pasco reached in common
7580 by the Northern Pacific and the O. R. & N.?

A. No.

Q. I understood you to say that the rail rate by the Southern Pacific and the O. R. & N. and the rate by the broken service had been equalized.

A. Yes.

Q. And Mr. Severance asked you if you had not raised rates, and so forth, and there was a good deal of talk back and forth between you and him about that; and you said that the rates were not the same by the all-rail route and by the water route; the water route had been lifted up above its original lower basis. Have you looked into that since adjournment last evening?

A. Yes.

Q. What is the fact about that?

A. I find that——

Mr. SEVERANCE. Have you the tariff there?

WITNESS. Yes, sir. I find that we have in effect today a tariff which names the same arbitraries for the ocean service between San Francisco and Portland, on business destined to all points on the Navigation lines in Oregon as are used on business destined to points on the Navigation lines in Washington and Idaho competitive with the Northern Pacific. In other words, we use today but one scale of arbitraries between San Francisco and Portland on business originating at or destined to all points on the Navigation lines. The tariff is O. R. N. No. 71-A, effective February 1, 1910.

Q. In giving your testimony you have expressed it by reference to arbitraries. Please explain that a little more fully. Do you mean to say that the rate is on a different basis by the water and rail route?

A. No, I mean to say that those arbitraries, to use that expression,—

7581 I was referring to certain rates that are lower than the local rates between San Francisco and Portland. Formerly the rates between San Francisco and points in Oregon were built or made on the basis of the local rates between San Francisco and Portland added to the rates between Portland and destination.

Q. That is what you said yesterday; I quite understand that—that the rate out from Portland is the same.

A. Yes.

Q. But your present rates to these Oregon points, as I understand you, points that are reached by the Southern Pacific as a connection of the O. R. & N. but which are not reached by the Northern Pacific,—as to those points, the lower rate by the water is a component part of the rate to that point, is it not?

A. Yes, that is true.

Q. In other words, how is the rate now made up to those Oregon points from San Francisco via the water and rail route? Is it a combination of both?

A. Yes.

Q. By water to Portland and the rail route from Portland to point of destination?

A. Exactly so.

Q. Then, the Southern Pacific rail rate is made up of the rail rate of the Southern Pacific to Portland plus the rate from Portland to destination?

A. It is.

Q. Then the fact is that you have a lower rate by the O. R. & N. water-and-rail route to those points today than by the all-rail-route, S. P. and O. R. & N., have you not?

A. Yes.

Q. So far as those same points in Oregon are concerned, that were spoken of here yesterday, the Southern Pacific never could reach those points at any time except as a connection of the O. R. & N. could it?

A. That is right.

Mr. DUNNE. And with the permission of Judge Williams, I will ask you to supplement a statement that you gave yesterday.

7582 You gave me the carload shipment San Francisco to Portland, but you did not give me the volume of less than carload shipments. I have a memorandum here of that.

A. The volume of the less than carload freight from San Francisco to Portland represents on an average about 2½ tons per day.

Q. I was under the impression also that I had asked you yesterday for the tonnage and Union Pacific earnings on lumber and other freight Portland to Ogden and Salt Lake via Huntington. I think you gave that.

A. I did.

Q. And that I had also asked you for the corresponding figures to points on and reached via the Rio Grande lines, via Huntington, but if I have not I wish you would read that off.

A. I think I gave those figures this morning in answer to an inquiry of Mr. Severance. However, I will give them again. Tonnage of lumber from Portland to points on and via the Rio Grande lines, via Huntington: 1899, 5,852 tons; 1900, 14,106; 1901, 11,436; revenue for the Union Pacific system lines, 1899, $30,819.44; 1900, $67,461.88; 1901, $55,937.61.

(A recess was here taken until 2 o'clock p. m., at which time the witness was recalled.)

By Mr. SEVERANCE:

Q. Mr. Miller, I neglected to ask you this morning whether at the time you took out these joint rates by the O. R. & N. and the Short Line to Ogden and thence west over the Southern Pacific to points in Nevada, you took out all the rates of that kind west of Ogden?

A. Yes, sir.

7583 Q. So that all traffic moving from the Willamette Valley or Portland to points immediately west of Ogden and from there clear across the states of Utah and Nevada, has to go by the Southern Pacific?

A. Well, it don't have to go that way.

Q. Well, it would have to, except on the sum of the locals?

A. Yes.

Q. In order to get advantage of the direct rate it would have to go by the Southern Pacific?

A. Yes. In fact the only rates we had in to points west of Ogden were the lumber rates.

Q. They were all lumber rates exclusively, were they?

A. Yes; lumber and lumber products.

Q. Then, it is not only lumber but everything else that moves to that territory from Portland or the Willamette Valley or any points in Oregon south of Portland that is sent over the Southern Pacific? You produced this morning O. R. & N. tariff, which is Supplement No. 2 to I. C. C. No. 1494, which does not become effective, as I un-

derstand it, until the 20th of March. It was only issued on the 9th of February.

A. That happens to be the supplement. The tariff itself you will find is effective on February 10.

Q. Have you the tariff here?

A. You have it in your hand.

Q. This is the tariff and the supplement both?

A. Yes.

Q. This extra sheet is the supplement. Now, in looking at this tariff I see that on page 8, section 1, you have proportional class rates between San Francisco, California, and points named in Group 1, page 5, and Portland, East Portland and Albina, Oregon, on shipments to or from points on lines of the C. P. R. R.—that is the Camas Prairie?

A. Yes; that is the Camas Prairie road.

7584 Q. —And the O. R. & N. Company east of East Portland, Oregon, including Mullen, Idaho, starting in with 35 cents first class and grading down to 13 cents class 5 and the subsequent classes. That proportional rate is the amount accruing to what company?

A. That is the basis used in arriving at the through rates to and from San Francisco.

Q. That does not make it quite clear to me; it is probably clear to you. The expression "proportional rate" is used as the proportion of the through rate accruing to whatever company gets the proportional, isn't that true? Isn't that the way the word "proportional" is used?

A. No.

Q. Then, explain what it is.

A. It is merely a basis that is used in arriving at through rates.

Q. I understand you to mean that 35 cents would be the first class through rate to points on the Camas Prairie Railroad or to Mullen, Idaho, or anything like that?

A. No; it is the rate that is used from San Francisco to Portland which added to the rate from Portland to destination makes the through rate.

Q. That is what I mean. Then, that is the proportional of the line, whatever the line may be, from San Francisco to Portland? That is right, isn't it?

A. No, it is not.

Q. Will you explain to me what the line would get in cents under this tariff, this 35 cents first class proportional rate? What would the line get from San Francisco to Portland?

A. Why, we take the through charges between San Francisco and the point of origin or destination, and then we subdivide that as between the rail line, the O. R. & N. Company, and the steamship line, which is the San Francisco & Portland Steamship Com-

7585 pany. The fact that 35 cents first class is shown as the proportional rate from San Francisco to Portland does not mean that that is the amount that the steamship company receives for its

service. It is merely an arbitrary basis that is used in fixing the through rates.

Q. Will you explain to me how you determine the through rate from this tariff?

A. We take the rates that are shown therein between San Francisco and Portland and add them to the rates between Portland and points in Oregon, Washington and Idaho, and the result thus obtained makes the joint through rate.

Q. Show me what the rate is that is named between San Francisco and Portland, if it is not that 35 cents I have spoken of. (Handing tariff to witness.)

A. Yes, that is the basis that is used.

Q. But that is the amount accruing to the line between San Francisco and Portland, isn't it?

A. No, it is not.

Q. Well, rate making of course is an art, I understand that, but I am trying to find out. Suppose the through rate is 60 cents to some point east of Portland, from San Francisco. Now you say you got 35 cents as the proportional northbound? How much of that 60 cents will accrue to the line from San Francisco to Portland?

A. I can probably explain that to you by making an exact illustration.

Q. Yes, I wish you would; I want to understand it.

A. The first class rate from Portland to Spokane, Washington, is $1.35. The first class rate from San Francisco to Spokane by water would be this $1.35 from Portland added to the 35 cents shown in that tariff from San Francisco to Portland.

7586 Q. Just a moment. You said that the first class rate from Portland to Spokane is $1.35.

A. $1.35. Now we use on the ocean 35 cents in determining the through rate from San Francisco to Spokane. So that the sum of those two make $1.70 as the first class rate from San Francisco to Spokane.

Q. Now, suppose that traffic, instead of moving by ocean to Spokane, moves all-rail, what would be the through rate?

A. The through rate would be $1.35 from Portland plus a 45 cent scale from San Francisco to Portland, or $1.80.

Q. That is, the territory of Spokane is the territory that you say you have the differential into, that you testified about yesterday, isn't it?

A. Yes, there is a differential to all of them.

Q. You spoke of the Northern Pacific reaching those points.

A. Yes.

Q. The Northern Pacific reaches Spokane?

A. Yes, sir.

Q. Now coming down into your own territory, where you testified yesterday that the differential had been abolished, do I understand you to say that you find you are mistaken about that and that under this tariff the differential still exists?

A. Oh, a differential exists——

Q. I mean down to these points in Oregon, concerning which you testified yesterday.

A. Yes; a differential exists there today, and a differential has always existed.

Q. I want to call your attention specifically to what you said yesterday, so as to clear it up. Here is what you said yesterday. You had been testifying about the differential that originally existed
7587 from San Francisco to points in Oregon, Washington, and Idaho, which you said was based on the rate from San Francisco to Portland and the rate from Portland to destination.

A. Now mark you well that statement.

Q. Thank you. Then you went on to say after that as follows:

"Q. When was the differential abolished?

"A. The differential has not been abolished except on traffic to points in Oregon that are served by the lines of the Navigation Company.

"Q. When was that?

"A. Oh, the rates have been the same for three or four years—or two or three years." Then you were asked as to how it was abolished, whether it was by raising the boat and rail rate or lowering the all-rail rate, and you gave quite a long answer to that, explaining how it was done. Now do I understand you are mistaken about that, and that that differential has not been abolished?

A. No.

Q. Then, I confess I must be very stupid, but I do not understand your testimony today, Mr. Miller, in connection with this tariff. I understood you to use this tariff for the purpose of showing that the differential on business to Oregon points reached by the O. R. & N. had not been abolished, as you stated yesterday.

A. I am willing to admit that the situation is somewhat complicated.

Q. I should think it is.

A. Now let me recite to you a little history and perhaps——

Q. I wish you would explain it thoroughly. I simply want to have the facts brought into the record.

A. I will try to do that.

Q. And if your statement yesterday was correct and it is unaffected by what you find on this tariff, very good. If it is affected by this tariff, state in what way you want to modify your testimony of yesterday.

7588 A. There are certain local rates in effect between San Francisco and Puget Sound and San Francisco and Portland via water; there are certain local rates in effect between San Francisco and Portland by rail. Ordinarily, through rates between San Francisco and points east of Puget Sound and east of Portland would be made on the basis of the full combination of the ocean local to Puget Sound and the rail rates beyond.

Q. Puget Sound or Portland?

A. Or Portland, or on any basis of the local rail rate to Portland added to the full local rates beyond. But owing to the competition that exists on the ocean and the desire or disposition on the part of the rail lines to hold as much of the San Francisco traffic as is practicable to their regular connections, rates from San Francisco to the territory east of Puget Sound and east of Portland are in some instances made on a slightly lower basis than the local water rates, and these slightly lower rates are the proportional rates shown on that tariff in front of you. Now, to points in eastern Washington and northern Idaho served by the lines of the Navigation Company, and which is almost in its entirety competitive with other lines, the rates are made on the basis of the proportional rates referred to, added to the full local rates of the rail carriers. That in order that the rates from San Francisco through Portland may be no different than the rates through Puget Sound. In Oregon a different situation exists. The competition through Puget Sound does not have to be met because there are no through rates from Puget Sound to that territory. Therefore, it has been our practice for several years to make the rates from San Francisco to these Oregon
7589 points both by water to Portland and by rail to Portland the full combination of the local rates from San Francisco to Portland added to the rates from Portland to destination where at least the full combination of local rates was not exceeded. Now, it so happens that the rail rates from San Francisco to Portland are higher than the water rates from San Francisco to Portland. Therefore, when the rates from San Francisco to points east of Portland are based on the full combination of the local rates, the rates by rail naturally would be higher than by the mixed water and rail service. And it might so happen that in some instances the rates by the mixed water and rail service would be the same as the all-rail service. Since February 10th, and I think for some two or three months probably prior to that time, the rates from San Francisco to these Oregon points by the mixed water and rail service, instead of being on the full combination of the local rates, are on the basis of this 35 cent proportional scale and the commodity rates as shown in that tariff, which in some instances are lower than the local commodity rates on Portland proper business. In other words, as the rates stand today, the basis that we use from San Francisco to points in Oregon for the mixed water and rail service are no different than the basis used in arriving at the through rates to points in Washington and Idaho. Now is that clear?

Q. Why, it is perfectly clear, but it seems to me it is inconsistent with what you said yesterday.

A. Well, I don't think so, although it may not be just as clear as I put it to you yesterday.

Q. Yesterday you were asked: "When was the differential abolished?" You said: "The differential has not been abol-
7590 ished except on traffic to points in Oregon that are served by the lines of the Navigation Company.

"Q. When was that?

"A. Oh, the rates have been the same for three or four years"—that is, the rates all-rail and mixed water and rail.

A. Yes.

Q. That is what you were examined about?

A. Yes.

Q. And are they still the same in many cases?

A. No, they are not today. The rates by water are considerably lower than by rail.

Q. That change occurred, then, when this new tariff went in?

A. Yes.

Q. This new tariff, you say, became effective the 10th of February, 1910?

A. Yes, that particular tariff did. I think it is a re-issue, with a few changes, of the tariff which was in effect immediately prior to February 10th.

Q. How long was that in effect?

A. Two or three months, I think.

Q. Let me see if I understand you correctly now; that your statement made yesterday is correct as conditions existed about three months ago, but as to conditions today it is not strictly correct?

A. Yes, I think that is a fair statement.

By Mr. DUNNE:

Q. You have been using, then, this so-called arbitrary under this tariff and its immediate predecessor?

A. Yes, sir, I think under the immediate predecessor.

Q. And that arbitrary is somewhat lower than the local water rate, isn't it?

A. Yes, in the majority of cases; in some cases it is the same.

7591 By Mr. SEVERANCE:

Q. That is quite usual, isn't it, to make a proportional rate lower than the local rate to the point through which the traffic moves?

A. Yes; otherwise there would be no occasion to make the through rate.

Q. Otherwise it would be the sum of the locals?

A. Yes.

7592 GEORGE W. LUCE,

being duly sworn as a witness on behalf of the Defendants, testified as follows.

Direct examination by Mr. DUNNE:

Q. Mr. Luce, where do you live?

A. San Francisco.

Q. What is your occupation or position?

A. General freight agent of the Southern Pacific Company.

Q. Will you state briefly your railroad experience and the capacities in which you have served?

A. I first started with the Central Pacific Railroad in 1875; continued in that service until 1887, when I accepted a position with the Gould lines, with headquarters at San Francisco. After being in their service from September 1, 1888, until September, 1891, I accepted service with the Union Pacific Railroad system, with headquarters at San Francisco, and remained in that service until November 20, 1894, when I re-entered the service of the Southern Pacific as assistant general freight agent, and continued in that position until October 15, 1901, when I was made general freight agent, and occupy that position at the present time.

Q. You say you were representing the Union Pacific at San Francisco up to November, 1894?

A. Yes, sir.

Q. When did your service begin with the Union Pacific?

A. About September 1, 1891.

Q. And during those three years you were in San Francisco?

A. Yes, sir.

Q. What was your capacity?

A. I was general agent of the freight department.

7593 Q. At the time you were representing the Union Pacific in its freight department in San Francisco, was the business between Portland and San Francisco being moved by the steamships, were they plying during those three years?

A. Yes, sir, and many years previous to that; in fact before the railroads had a line that steamer line was on.

Q. During the time you were representing the Union Pacific in San Francisco, during those years, did the freight moving from San Francisco to Portland come under your observation and within your jurisdiction as freight representative of the Union Pacific?

A. Yes, sir, it did.

Q. You gave that business direct attention, did you not?

A. Yes, sir.

Q. During that time what was the extent of the train service between San Francisco and Portland? What was the character of the train as to its being a through train on that business, or a way train?

A. I do not think that they ran any through trains to Portland; in fact I do not believe they handled any business sufficient to warrant any trains on the Portland business. They naturally ran the daily train out of San Francisco, as they do in all directions, to take care of the local business beyond San Francisco; for example, to Sacramento they would take the freight.

Q. Something was said here this morning about a freight train between San Francisco and Portland. Take the freight train going

out from San Francisco and moving in the direction of Portland at the present time. You are familiar with that, are you not?

A. Yes, sir.

Q. What points would that train serve in the way of de-
7594 livering freight between San Francisco and Portland? Can you mention some of the points?

A. It would handle Sacramento freight, Lincoln, Wheatland, Marysville, Oroville, Durham, Nelson, Chico, Red Bluff, up to Dunsmuir and beyond.

Q. Where are the points that you have just named situated—in what State?

A. In California, Sacramento Valley.

Q. Now take any freight having destination to local points on the Southern Pacific Railroad in the Willamette Valley; what service would that train render in respect to those points?

A. Similar service. It would undoubtedly place that traffic with this other traffic I have mentioned and would handle it in that train up as far as Dunsmuir. I do not think they would have sufficient in any train to run a train beyond there without gathering together trains of three or four days and then possibly they could run a way train from there toward Portland.

Q. Where is Ashland? How near is that to the California line?

A. It is at the Oregon-California state line.

Q. Where is Grant's Pass?

A. Just beyond that; I should say about 100 miles beyond.

Q. I just mention those points for illustration. Would the way train service be rendered to those points also?

A. Yes, sir.

Q. Then, the train would move along from place to place from San Francisco until it finally reached Portland?

A. Yes, sir.

Q. About how much time did that train take?

Mr. SEVERANCE. Mr. Luce at that time was a Union Pacific man, wasn't he?

Mr. DUNNE. Yes.

Mr. SEVERANCE. He had nothing to do with this route.

7595 Mr. DUNNE. I am speaking of the present time, the way train now.

A. That freight would make at the present time six or seven days from San Francisco to Portland.

Q. Do you know anything about the time the train took say in 1900?

A. We never considered the rail line traffic in those days. The service was, I should say, 6, 7 or 8 days.

Q. I am speaking now, say, of the years 1900 and 1901. What would the service be, about how many days?

A. I should say about 7 or 8 days.

Q. During the time that you represented the Union Pacific as its agent in San Francisco, to what extent was the Southern Pacific Com-

pany a factor in the takings of freight business San Francisco and Portland?

A. We never considered the Southern Pacific interested in that traffic whatever.

Q. What do you mean by that?

A. That they didn't engage in it, they didn't handle the business, didn't seek it. The ocean lines generally handled that business between San Francisco and Portland.

Q. You say that at the time you were the agent of the Union Pacific at San Francisco the steamers were plying between Portland and San Francisco?

A. Yes, sir.

Q. During that time was the route by the way of the Union Pacific to Portland and thence to San Francisco by steamship operated as a transcontinental route?

A. Not at any time.

Q. Did you ever attempt as freight agent of the Union Pacific to work any business that way?

A. Not at all, no sir.

7596 Q. So far as the Union Pacific transcontinental business from San Francisco was concerned, how did that business go and how did you work it?

A. Always via Ogden in connection with the Southern Pacific Company.

Q. Did you ever know of any shipments, while you were the agent of the Union Pacific at San Francisco, to go by that route—the ocean and Portland and the Union Pacific?

A. No, sir, I did not.

Q. What was the situation in respect to that same route in the years 1900 and 1901?

A. Precisely the same.

Q. And since 1900 and 1901 how has the business moved—the Union Pacific business?

A. Always through Ogden by the Southern Pacific Company.

Q. And the eastbound business, how did that move?

A. The Southern Pacific through Ogden and the Union Pacific.

Q. Some of that business moved, did it not, also D. & R. G., and about what percentage did the business divide in 1900 and 1901?

A. I should say 70 and 30—70 per cent to the Union Pacific and about 30 per cent to the Denver & Rio Grande.

Q. Since 1901 how has the business divided at Ogden between the Union Pacific and D. & R. G.?

A. You mean recently?

Q. Yes.

A. 90 per cent to the Union Pacific and about 10 per cent to the Denver & Rio Grande.

Q. The Southern Pacific, in 1900 and 1901, moved business from the Willamette Valley, did it not?

A. Yes, sir.

Q. Do you understand that there were certain river points in 1900 that were served by the boats of the Oregon Railroad & Navigation Company?

A. Yes, sir.

Q. Then south of those points the Willamette Valley ex-
7597 tended, did it not?

A. Yes, sir.

Q. Did the Southern Pacific move any business from the points that were served also or could have been served by teaming or otherwise through the river boats? Did the Southern Pacific serve those river points also?

A. Yes, sir.

Q. How did the tonnage of the Southern Pacific attributable to those river points compare in volume with its tonnage from the Willamette Valley, as a whole?

A. I should say that river business was about 10 or 11 per cent of the total business.

Q. Are you speaking of the year 1900 and 1901?

A. Yes, in through there.

Q. Then, it may be fairly stated, may it not, that the great volume of Southern Pacific tonnage from the Willamette Valley was from points exclusive of these co-called river points?

A. Yes, sir.

Mr. SEVERANCE. I think I will object to that as leading. Mr. Dunne was rather careful about my questions. I think perhaps it is just as well to let Mr. Luce testify instead of Mr. Dunne giving the testimony.

Q. Well, you have testified to the percentages, Mr. Luce?

A. Yes, sir.

Mr. SEVERANCE. I am saving the witness from having you characterize the testimony.

Mr. DUNNE. I have not characterized his testimony. I have expressed it comprehensively and felicitously.

Q. Take the years 1899, 1900, 1901, that epoch, that time, did any of the Asiatic business eastbound or inward bound go east over the Sunset?

A. No, the Asiatic business did not go east by the Sunset
7598 route. It was always forwarded by Ogden and Union Pacific and our preferred connections, the Northwestern and the Milwaukee & St. Paul Railroads. Not all of it by those two lines, but I should say about 70 per cent. And that is true of the westbound, except that there was a small portion of westbound Asiatic business that moved via the Sunset route—no eastbound via Sunset.

Q. Recurring for a moment to the steamship business between Portland and San Francisco. How would freight coming into San Francisco by vessel from Portland reach California points like Sacramento and Stockton, for instance?

A. The freight would be unloaded from the ship on to the dock in San Francisco; it would then be loaded on teams and transferred

by the team to the railroad depot or wharves of the river boats, Jackson Street wharf or Washington Street wharf, and then handled again from the wharves into cars or into the steamers, and then locally from the wharves or the depot to the point of destination of the freight.

Q. Now, you say it would be local to the destination, and you have used the word "steamers". What kind of steamers?

A. Steamers of light draught, river steamers, plying on the Sacramento River between San Francisco and Sacramento, and also on the San Joaquin River and Stockton Channel, between San Francisco and Stockton. They were light draught river boats.

Q. To what extent is traffic susceptible of delivery by water from San Francisco to places like Sacramento or Stockton by ocean steamer?

A. Not at all. The ocean steamers are of too great draught. They could not ply those streams at all. They must transfer their freight to the light draught river boats.

Q. In the years 1900 and 1901, how far north did the South-
7599 ern Pacific rails extend, having special reference to Portland?

A. Right through to Portland.

Q. Was that the ultimate northern point?

A. Yes, sir.

Q. By what connection then could the Southern Pacific reach points in eastern Oregon, Washington and Idaho?

A. In connection with either the O. R. & N. Company or the Northern Pacific at Portland.

Q. Did the O. R. & N. and the Northern Pacific at that time have through lines by mixed service to these same points from San Francisco?

A. Yes, sir. The O. R. & N. had its own boat line from San Francisco to Portland and there connected with its rails, and the Northern Pacific had a traffic arrangement with the Pacific Coast Steamship Company plying from San Francisco to Tacoma, thence their rails to those points in eastern Washington and Idaho.

Q. Do you know how the rate compared, as to being higher or lower, as between the mixed service and the all-rail service to these points at that time?

A. It was lower.

Q. What was the principal connection of the Southern Pacific? What was the rail connection over which its business principally moved?

A. Over the O. R. & N., because of greater divisions via that line than with the Northern Pacific.

Q. Now take the general merchandise and eastern manufactured goods, and having in mind these same points of destination beyond Portland and eastern Oregon, Washington and Idaho, from what points were general merchandise goods and eastern manufactured goods distributed to those places of consumption?

A. Quite largely from Portland, Seattle, Tacoma, and to some extent Spokane would job into that same territory, for the reason that the rates to Portland, Tacoma and Seattle are the same as to San Francisco, and the distributive rates from those points into the immediate interior is considerably less than from San Francisco.

Q. What do you mean by the terminal rate?

A. The rate made to all Pacific coast terminals, like San Francisco, Portland, Seattle, Tacoma. They are alike. That is, from eastern points.

Q. As to Montana points, how did the Southern Pacific freight move from San Francisco to Montana points?

A. Both via Ogden, Oregon Short Line and Northern Pacific, and Portland and the Northern Pacific, but mostly via Ogden and the Short Line.

Q. With respect to eastern manufactured goods, general merchandise, so far as Montana common points are concerned, from what point or points was such freight distributed principally to Montana points?

A. I would say from eastern points direct to Montana, for the reason that the rates to Montana are lower than the rates to Portland and to San Francisco, considering the local to be added from San Francisco and Portland back into Montana on those same goods.

Q. Mr. Severance called attention the other day to the circumstance that a rate of five dollars was applied upon railroad ties between Willamette Valley points and San Francisco, and that the rate upon lumber was $3.10. I think he asked some questions of Mr. Jones about that. By the way, when did Mr. Jones come to San Francisco as the freight traffic manager?

7601 A. In September, 1906.

Q. Previously to that time where had he been stationed?

A. At Houston, Texas.

Q. Mr. Jones did not have the local familiarity with conditions that you had?

A. No; he could not possibly have had in so short a space of time.

Q. Now, Mr. Luce, I will ask you about the rate on ties, $5, and the rate upon lumber, $3.10. Are you familiar with the history of that rate?

A. I believe I am.

Q. Will you explain that, please?

A. The $3.10 rate was in effect, firstly, on green lumber and its products, which included the ties.

Q. How is that?

A. The $3.10 rate was in effect, firstly, on green lumber and its products, which included the ties. It was concluded that the $3.10 rate was too low on even the green lumber, and the rate on ties in its entirety was increased to $5. The lumber people in the Willamette Valley objected to that increase in the lumber rate and our people negotiated with them and concluded to recede from the $5 rate on

green lumber, and reinstated the $3.10 rate on green lumber, and it therefore left the products, namely, the tie, at the $5 rate.

Q. And all other——

A. And all other products. That is the history of that advance.

7602 Cross-examination by Mr. SEVERANCE:

Q. Just a word about this tie-rate. How long are railroad ties—pine ties?

A. 8 feet; 6 by 8, I believe.

Q. They are made out of the commonest kind of lumber, aren't they?

A. No, I can't say that they are made out of the commonest kind; I think they are selected stock.

Q. How do they compare with lumber used for sills, joists or scantling?

A. I should say about the same class of lumber.

Q. And you say that you put in a rate at one time of $3.10 on all classes of lumber?

A. That rate was in, I understand.

Q. It was in, whoever put it in. By "you" I mean the Southern Pacific Company.

A. Yes.

Q. Out of the Willamette Valley?

A. Yes.

Q. Then you concluded that rate was too low, and you raised it to $5?

A. Yes, sir.

Q. Then you put it back to $3.10, but left the rate on ties at $5?

A. Yes, sir.

Mr. DUNNE. I do not think you quote the exact statement. Just read the question.

The last two questions and answers were read.

WITNESS. Speaking of lumber, so far as that $3.10 and $5 are concerned.

Q. That is correct. I have correctly stated it, haven't I?

A. Yes.

Q. Do you know of any other instance in which ties took a higher rate than ordinary rough lumber?

A. I can't recall territory where the same conditions exist as do exist upon that line.

7603 Q. That is not an answer to my question.

The question was read.

A. As a general thing I would be willing to apply the same rate on ties as applied on lumber. But in a territory such as this, where the rates are so extremely low, we believe that ties can stand a higher rate than the rate forced upon the lumber.

Mr. SEVERANCE. Read the question to the witness and see if he understands it. If so, I would like it answered.

The question was read.

WITNESS. I don't happen to know of any at the present time, but probably I could locate some.

Q. You don't know of any at the present time, and you don't know of any that ever existed, do you?

A. No, because I have not knowledge of all the rates in effect upon lumber or all rates in effect on ties.

Q. I am not asking you as to whether you are omniscient; I am merely asking you whether you ever knew of such an instance as the rate on ties being higher than the rate on ordinary rough lumber, except in this one case where you made the rate as you stated.

A. I don't believe I can give you a direct answer to that for the reason that I don't know what I have known in the past. I may have forgotten. I may have known it. I do not call to mind any now.

Q. You don't remember to have forgotten this, do you?

A. I don't recall today of the rate.

Q. You haven't in your mind any recollection of any such rate, have you?

A. No, I have not.

7604 Q. Did the fact that the Western Pacific Railroad Company, a competitor of the Southern Pacific, was being built into San Francisco, and the fact that it was getting its supply of ties from the Willamette valley, have anything to do with keeping that rate higher than the rate on ordinary rough lumber?

A. No, sir.

Q. You are sure of that, are you?

A. Yes, sir.

Q. Did the fact that you might desire to keep the ties on your own line, have anything to do with keeping that rate up?

A. No, sir. The rate was made as I stated.

Q. What other products of lumber were left at the $5 rate, with the exception of ties, when you put that rate back to $3.10?

A. The surfaced lumber; well, all other excepting the regular lumber—the green lumber sawed in two or four or six inch——

Q. Ties are green lumber, aren't they?

A. No, ties are a commodity. They are not green lumber any more than a door is lumber after the door is made.

Q. Then you regard a tie which is 8 feet long, as much more of a finished product than the same piece of timber 16 feet long?

A. Yes, sir, I do. It is finished for the purpose.

Q. If it is 16 feet long and 8 inches square it is finished for its purpose, too, isn't it——

A. Not necessarily.

Q. Isn't it,—for a sill?

A. No, not necessarily.

Q. What is the difference whether a log is cut 16 feet long and 8 inches square to be used as a sill upon which to place a building, or

whether it is cut 8 inches square and 8 feet long to be used under a railroad rail?

7605 A. For the reason that the tie you speak of is only used for a tie and can only be used for that, properly speaking; and the sill can be cut up and used for various purposes.

Q. That is the reason for the distinction?

A. It is a manufactured product and finished for the use to which it is to be put.

Q. Does it occur to you as at all singular that no one else, so far as you recall now, has ever observed any distinction between the two so as to make a difference in the rate?

A. They would have if they had these same conditions, that low rate of $3.10 in; they would have escaped every product of lumber they possibly could rather than to carry it at $3.10.

Q. Why did you put any of it back to $3.10?

Mr. DUNNE. Explain that.

Q. Yes, explain that fully. I want you to.

A. The mill men had started their mills and cut the lumber, and they thought it was not quite fair to advance their rate from $3.10 to $5 on the lumber; and upon negotiations, we concluded that we would reduce the rate on the green lumber down to $3.10 so that it could freely move as before to San Francisco Bay points.

Q. So that is the reason it was done?

A. Yes, sir.

Q. Did you ever hear of Mr. Kelley of the Booth-Kelley Lumber Company?

A. Yes, sir. I have read his testimony.

Q. Do you remember that he testified that putting up that rate on ties to $5 a thousand made it impossible for him to make deliveries of ties in San Francisco or stock in territory where the Western Pacific were trying to buy ties?

7606 A. I read that testimony, yes, sir.

Q. You remember that he said that, do you?

A. Yes, sir.

Q. He is a big manufacturer of lumber, isn't he, in the Willamette valley?

A. Yes, sir.

Q. You stated, in answer to Mr. Dunne, a few minutes ago, that the Southern Pacific did not seek business previous to the merger, as I understood you, between San Francisco and Portland?

A. I said I never considered that they were interested in that traffic.

Q. Didn't you say squarely that they did not seek the business?

A. Yes; I believe I did say that.

Q. Do you still say that?

A. Yes, sir.

Q. How was it as to the business for Montana? Did they seek that—out of San Francisco?

A. Yes.

Q. Actively?

A. I don't know as they did actively, but they sought that business, handled the business and handled a majority of the business through Ogden in connection with the Oregon Short Line.

Q. Did they solicit that business?

A. I don't think they did solicit the business. It came to us naturally because we were the shortest line and it was daily all-rail service; and I don't believe that they solicited very much.

Q. What company were you with at that time?

A. The Southern Pacific.

Q. I thought you were with the Union Pacific?

A. No; from 1891 to 1894 I was.

Q. Do you know Mr. Connor?

A. Mr. F. F. Connor, yes, sir.

Q. When he represented the O. R. & N. in San Francisco?

7607 A. Yes, sir.

Q. Would the fact that he testified that the Southern Pacific were active in soliciting Montana business, modify your views in that regard?

A. Well, he was on the street soliciting business for the O. R. & N., and probably he would notice that more than I would in the general office after that.

Q. Now, as to the business moving locally between Portland and San Francisco, you know, do you not, that on California products such as sugar, canned goods, and things of that sort, the Southern Pacific took what it could get up to Portland?

A. Well, if they would back up their cart and deliver it to us, we would take it; but we never sought the business.

Q. Do you mean to tell me that you did not try to get what business you could for your line—that people had to force the business on you?

A. At the going rates by the steamer; yes, sir.

Q. No, but at your rail rate.

A. If they would, as I say, make the delivery to us, we would take it; but we would not solicit business for rates higher than the ocean rates because——

Q. And you never did?

A. No.

Q. If that is the case, will you explain to me why on the first day of December, 1895—which was when you were with the Southern Pacific, after you left the Union Pacific—rates were put in by the Southern Pacific Company applying between San Francisco, California, only, and Portland and Salem, Oregon and points between, as follows: On the first four classes, 12½ cents per hundred pounds, and on the 5th and A, B, C, D and E classes 10 cents per hun-

7608 dred pounds, with the following notation on the tariff: "These rates are not regarded as fair compensation for the service but are forced by the excessive competition of ocean lines"?

If the Southern Pacific Company was not competing for business local to Portland, why did they put in that tariff?

A. As Mr. Stubbs explained, that was that foolish war measure. They simply attempted to get into the business. It was a failure, and they got out of it and have kept out of it ever since.

Q. That was when you were foolish, that you put that in, was it?

A. Yes, sir.

Q. You have read the record in this case, haven't you, so far as the witnesses have testified about this Portland and San Francisco traffic?

A. Some of it, yes, sir.

Q. You remember the testimony of merchants in these cities, both cities, as to their traffic being solicited by the Southern Pacific, don't you?

A. I remember of Portland merchants testifying that they were solicited, but I don't recall any San Francisco merchant having so testified, although they may have.

Q. Don't you remember Mr. Havens testifying about his business moving both ways?

A. Who is that?

Q. Mr. Havens,—a hardware man in San Francisco.

A. I don't recall. If he did, I don't think he said it was solicited by——

Q. But you do remember the Portland merchants testifying to that?

A. I do.

Q. You do not doubt their statements, do you?

A. I do not.

Q. Their business was solicited by the Southern Pacific?

7609 A. In Portland probably that was the fact, southbound business.

Q. Personally you did not have anything to do with the solicitation of business, did you?

A. When I was with the Union Pacific?

Q. No, the Southern Pacific.

A. I had general charge of it; I looked after it. And I might say this, that in the last six months I have talked with our general agent in San Francisco and he states absolutely that they never solicited for Portland business.

Mr. SEVERANCE. I move to strike that out as a voluntary statement and purely hearsay. If the agent could be brought here, where I could examine him, I would be quite willing to have him make that statement; but I object to it appearing here in Mr. Luce's statement, as uncalled for.

Mr. DUNNE. I do not think it is any more uncalled for than your question to him as to the testimony of the Portland merchants. He ought not to be asked as to their testimony.

Mr. SEVERANCE. I asked him whether the fact that they so stated would modify his opinion. I have a right to ask him that. This is cross-examination.

Mr. DUNNE. I do not think it is proper.

Mr. SEVERANCE. It is immaterial whether you do or not. The question has been asked, and it was a perfectly proper question.

Mr. DUNNE. I do not think it is any more proper than your criticism on his answer.

7610 Q. Isn't it a fact that the soliciting agents of the Southern Pacific were on the street, at the time the O. R. & N. was separate from the Southern Pacific, and were seeking to get whatever business they could for the Southern Pacific?

A. They were there to attend to the business of the Southern Pacific.

Q. To get what traffic they could?

A. They were there, yes, sir, to take care of all their interests.

Q. You were running cars up to Portland?

A. Yes, sir.

Q. They probably were not carried through with the same engine, because it is a good many miles. But cars were leaving northbound every day, weren't they?

A. In the direction of Portland, yes, sir.

Q. Some of them were carrying traffic to points in northern California, some of them to points in southern Oregon, possibly some traffic to both places in the same car, some to Portland proper, some to points beyond Portland?

A. As I have already testified.

Q. That is true, isn't it?

A. As I have testified.

Q. Well, my statement is correct?

A. My statement is already in the record, and I think it ought to go with that.

Q. I will ask you a question, and I would like you to answer it, if you please. Just note my question. It is a fact, isn't it, that cars were leaving San Francisco daily, hauled by Southern Pacific engines, on Southern Pacific rails, which cars contained traffic, some of it bound to northern California, some to southern Oregon, some to Portland proper, and some to points beyond?

A. I believe that to be correct.

7611 Q. It is a fact that once in 5 days a steamer was leaving San Francisco for Portland, loaded with traffic local to Portland and traffic for points beyond Portland, which steamers were run by the O. R. & N. Company?

A. Yes, sir.

Q. As I understand you, your present schedule between San Francisco and Portland, is 6 or 7 days—freight schedule?

A. Yes, I would say that.

Q. And the ships sail once a week now—once in 7 days?

A. I believe that to be true.

Q. You stated that the river business out of the Willamette valley was 10-1/2 to 11 per cent, didn't you?

A. Yes, sir.

Q. Where did you get those figures?
A. My general knowledge of the traffic there.
Q. That is just an estimate, isn't it?
A. Yes, that is all.
Q. The other day, when Mr. Mohler was on the stand, he said that he had heard from somebody—and you seem to be the only man that anybody thought would know anything about it—that there was an agreement between the shippers of citrus fruits in California and the Southern Pacific Company, with reference to the movement of that traffic to Chicago—the time. Do you know anything about any such thing?
A. Between the shippers?
Q. Yes, between the shippers and the Railroad Company.
A. I do not know of any such arrangement.
Q. Never heard of it?
A. Never.

7612 C. S. STEBBINS,

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination by Mr. DUNNE:

Q. Mr. Stebbins, I think you were examined in this case, were you not?
A. I was.
Q. And testified that you were Assistant to the General Auditor of the Union Pacific Company?
A. That is correct—Union Pacific and Southern Pacific companies.
Q. That is, assistant to Mr. Young, the General Auditor of those companies?
A. Yes, that is correct; at that time. Mr. C. B. Seger is now General Auditor.
Q. He succeeded Mr. Young. You prepared some statements for Mr. Severance, I believe, that were introduced into the record?
A. I did.
Q. And compiled those statements from what sources?
A. They were compiled from the records of the companies.
Q. I have a statement here which is marked Defendants' Exhibit 45, westbound Asiatic traffic, volume, and U. P. and S. P. revenue via Portland and via Sunset-Gulf route. Calling your attention to Defendants' Exhibit 45, and to the item "Via Portland, Total Traffic, Tons, 262," and "U. P. Revenue, $1,044.27," I will ask you from what sources you compiled the tonnage and the earnings.
A. Those were compiled from the records of the companies; from the same records from which the reports to the stockholders were made, and the reports to the Interstate Commerce Commission.

7613 Q. Calling your attention to the item showing the total traffic via the Sunset-Gulf route, the tons are given at 1,098, and the Southern Pacific revenue at $24,789.92. From what source were those figures compiled?

A. Those figures were compiled by the Auditor of the Southern Pacific Company's Atlantic steamship lines.

Q. Under whose direction?

A. Under my direction.

Mr. SEVERANCE. Defendants' Exhibit 45 is headed "Westbound Asiatic Traffic, Volume and U. P. and S. P. Revenue via Portland and Sunset-Gulf Route." Underneath it says "Movement Outward and Inward." Is that right or wrong?

WITNESS. That is wrong. The words "and Inward" should be stricken out. I have a note to that effect.

Mr. DUNNE. You have the original before you. Just draw your pencil through that.

The witness struck out with pencil the two words referred to.

Q. Have you attached to the exhibit a detail for the 262 tons?

A. It is attached, yes, sir.

Q. I notice that in the detail the total is 261.95. You have made that in round figures 262, have you not?

A. Yes. That was at Mr. Stubbs' request.

Mr. SEVERANCE. I notice that this is for the year ending June 30, 1901. You have not attempted to divide it by months, have you?

WITNESS. No.

Q. The item "Via Sunset-Gulf" refers to the tonnage through San Francisco, via Sunset-Gulf route, as I understand it?

7614 A. Yes, that is the tonnage through San Francisco via the Sunset Route, including the Atlantic steamship lines from New York to New Orleans.

The detailed statement referred to by the witness was marked Defendants' Exhibit 45–A, Supplemental (Stebbins), was offered in evidence by the Defendants, and is as follows:

7615 **DEFENDANTS' EXHIBIT 45–A, SUPPLEMENTAL**

(Stebbins)

Statement of Tons Carried and Freight Revenue of the Union Pacific System, on Westbound Freight Traffic between the Orient and Various Eastern Territories via Portland, Oregon, for the Fiscal year ending June 30, 1901.

From—	Via—	Tons Carried.	U. P. Sys. Freight Revenue.
Missouri River Common Points Territory.	Granger		
	Salt Lake City		
	Spokane		
	Wallula		
	Total		
Mississippi River Common Points Territory.	Granger	16. 10	150. 57
	Salt Lake City		
	Spokane		
	Wallula		
	Total	16. 10	150. 57
Chicago and Common Points Territory.	Granger		
	Salt Lake City	140. 69	689. 37
	Spokane		
	Wallula	105. 00	196. 66
	Total	245. 69	886. 03
Cincinnati, Detroit and Common Points Territory.	Granger		
	Salt Lake City		
	Spokane		
	Wallula		
	Total		
Pittsburgh, Buffalo and Common Points Territory.	Granger		
	Salt Lake City		
	Spokane		
	Wallula		
	Total		
Boston, New York and Common Points Territory.	Granger	. 16	7. 67
	Salt Lake City		
	Spokane		
	Wallula		
	Total	. 16	7. 67
Total	Granger	16. 26	158. 24
	Salt Lake City	140. 69	689. 37
	Spokane		
	Wallula	105. 00	196. 66
Grand total		261. 95	1, 044. 27

Statement of Tons Carried and Freight Revenue of the Union Pacific System, etc.—Continued.

	Total Tons Carried.	Gross Operating Revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System for year ending June 30, 1901	8,209,209	43,538,181.01
Ratio of Westbound Oriental Freight Traffic via Portland to total tons of freight carried by and gross operating revenue of Union Pacific System	0.003%	0.002%

NOTE.—Union Pacific System includes Union Pacific Railroad Company, Oregon Short Line Railroad Company and the rail and water lines of The Oregon Railroad & Navigation Company. Owing to the destruction of certain records by fire, the total tons carried have been partially approximated. The gross operating revenue is correct.

Compiled by: (Sgd) C. S. STEBBINS,
Assistant to General Auditor Union Pacific System and Southern Pacific Company.

7616 *Statement of Tons Carried and Freight Revenue of the Union Pacific System, on Eastbound Freight Traffic between the Orient and Various Eastern Territories via Portland, Oregon, for the Fiscal Year ending June 30, 1901.*

To—	Via—	Tons Carried.	U. P. Sys. Freight Revenue.
Missouri River Common Points Territory	Granger	239.68	2,921.32
	Salt Lake City	.....	.....
	Spokane	25.40	109.46
	Wallula	109.53	337.31
	Total	374.61	3,368.09
Mississippi River Common Points Territory	Granger	917.16	9,725.39
	Salt Lake City	.....	.....
	Spokane	62.85	261.11
	Wallula	36.85	125.34
	Total	1,016.86	10,111.84
Chicago and Common Points	Granger	201.23	2,061.24
	Salt Lake City	.....	.....
	Spokane	347.19	1,308.35
	Wallula	58.36	195.85
	Total	606.78	3,565.44
Cincinnati, Detroit and Common Points Territory	Granger	178.76	1,931.31
	Salt Lake City	.....	.....
	Spokane	68.55	226.37
	Wallula	16.07	41.95
	Total	263.38	2,199.63

Statement of Tons Carried and Freight Revenue of the Union Pacific System, etc.—Continued.

To—	Via—	Tons Carried.	U. P. Sys. Freight Revenue.
Pittsburgh, Buffalo and Common Points Territory	Granger	163.46	1,624.07
	Salt Lake City	.....	.....
	Spokane	76.25	237.82
	Wallula	52.09	136.45
	Total	291.80	1,998.34
Boston, New York and Common Points Territory	Granger	2,935.78	28,119.14
	Salt Lake City	.....	.....
	Spokane	836.05	2,715.90
	Wallula	149.80	447.58
	Total	3,921.63	31,282.62
Total	Granger	4,636.07	46,382.47
	Salt Lake City	.....	.....
	Spokane	1,416.29	4,859.01
	Wallula	422.70	1,284.48
Grand Total		6,475.06	52,525.96

	Total Tons Carried.	Gross Operating Revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System for year ending June 30, 1901	8,209,209	43,538,181.01
Ratio of Eastbound Oriental Freight Traffic via Portland to total tons of freight carried by and gross operating revenue of Union Pacific System	0.08%	0.12%

NOTE.—Union Pacific System includes Union Pacific Railroad Company, Oregon Short Line Railroad Company, and the rail and water lines of The Oregon Railroad & Navigation Company. Owing to the destruction of records by fire the total tons carried have been partially approximated. The gross operating revenue is correct.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor Union Pacific System and Southern Pacific Company.

7617 Q. Have you attached to Defendants' Exhibit 45 a detail for the item Sunset-Gulf Route Tonnage, 1,098, and Revenue, $24,789.92?

A. I have a statement here of the auditor of the Atlantic Steamship Lines, which is the detail.

Q. Attached to Defendants' Exhibit 45?

A. To be attached to that, yes, sir.

The statement last referred to by the witness as being in detail was marked Defendants' Exhibit 45–B, Supplemental, (Stebbins), was offered in evidence by the defendants, and is as follows:

DEFENDANTS' EXHIBIT 45–B SUPPLEMENTAL

(Stebbins)

SOUTHERN PACIFIC COMPANY

ATLANTIC STEAMSHIP LINES

Statement of tonnage and revenue accruing to system lines on business forwarded to China and Japan, for fiscal year ending June 30th, 1900.

Tons.	Ship Revenue.	Rail Revenue.	Total System Revenue.
1,098	$4,338.24	$20,451.68	$24,789.92

AUDITOR'S OFFICE,
New York, N. Y., Jan. 12th, 1910.
(Sgd) B. G. BARTHOLOMEW,
Auditor.

7618 Q. I show you a statement which will be marked Defendants' Exhibit 45–C, Supplemental, (Stebbins), which is headed "Asiatic Traffic, Volume and U. P. and S. P. Revenue, for year ending June 30, 1901, movement Outward and Inward," giving the tons and the Union Pacific and Southern Pacific revenue. Does this refer to the movement through San Francisco both outward and inward?

A. That statement refers to the movement in both directions.

Q. Have you a detail of that?

A. I have a detail here.

Q. The same statement, as referred to Portland, gives the total traffic as 6,737 tons, with the Union Pacific earnings. From what source was that compiled for Portland?

A. That was compiled from the records of the companies, and comprises, in addition to the westbound tonnage of 262 tons included in Defendants' Exhibit 45, similar tonnage eastbound of 6,475 tons, of which the detail is here.

Q. This statement to which I am now referring is "Outward and Inward," both for San Francisco and Portland?

A. That is correct.

Defendants' Exhibit 45–C, Supplemental, (Stebbins) was offered in evidence by the defendants, and is as follows:

7619 DEFENDANTS' EXHIBIT 45–C, SUPPLEMENTAL.

(Stebbins.)

Lovett's question No. 13.

Sub-Division "A."

ASIATIC TRAFFIC.

Volume and U. P. and S. P. revenue for year ending June 30, 1901.

Movement outward and inward.

Via San Francisco:				
Total Traffic	Tons	29,515	U. P. Revenue	$172,415
			S. P. "	146,872
Average per Month	"	2,210	U. P. "	14,368
			S. P. "	12,239
Via Portland:				
Total Traffic	Tons	6,737	U. P. Revenue	$53,570
Average per Month	"	561	U. P. "	4,464
Via Both Ports:				
Total Traffic	Tons	33,252	U. P. Revenue	$225,985
			S. P. "	146,872
Average per Month	"	2,771	U. P. "	18,832
			S. P. "	12,239

Authority: Auditor's statements (4) attached.

7620 Q. You have already given the detail for the westbound Portland business—the 262 tons. You have the detail for the eastbound, which you have just handed me, have you not?

A. That is correct.

Q. I will ask you if you have the detail for the eastbound traffic via Portland, which you have added to the 262 tons, and which is totaled 6,475.06 tons?

A. I have the detailed statement.

Q. From what sources were those figures compiled—6,475.06 tons?

A. They were compiled from the records of the companies. The total tons of freight carried by Union Pacific system for the year ending June 30, 1901, 8,209,209.—as stated in the foot-note, owing to the destruction of records by fire the total tons carried have been partially approximated. The gross operating revenue is exact.

Mr. SEVERANCE. I thought you were unable to get up statistics covering the years 1900 and 1901, of either the Southern Pacific or Union Pacific, because the records were burned up.

WITNESS. Yes. I will explain how these statements are made up.

Mr. SEVERANCE. For instance, this statement covers in detail the tonnage and earnings for the year ending June 30, 1901.

WITNESS. Via Portland. We have the records.

Mr. SEVERANCE. I suppose you would like to have that appear in the record, because it does appear already that your Union Pacific records have been burned up for 1900; and the Southern Pacific records were burned.

7621 WITNESS. The records of the San Francisco office were burned, and a portion of the records of the Omaha office were burned. The records of the Portland office are intact, and this statement was compiled from the records of the Portland office.

Q. When you say "this statement" you are referring to Defendants' Exhibit 45–D, Supplemental?

A. Yes.

Mr. SEVERANCE. Then, as I understand it, the totals shown on Defendants' Exhibit 45–A, both sheets, were made up either from the record of the steamship line here in New York for the Sunset-Gulf business, or the records at Portland, neither of which were destroyed?

Mr. DUNNE. Yes, that is correct.

WITNESS. The figures for the Sunset-Gulf route were compiled on this business, from the records of the steamship line, for this exhibit; that is correct.

Defendants' Exhibit 45–D, Supplemental (Stebbins) was offered in evidence by the Defendants, and is as follows:

7622 DEFENDANTS' EXHIBIT 45–D, SUPPLEMENTAL,

(Stebbins)

Statement of Tons Carried and Freight Revenue of the Union Pacific System, on Eastbound Freight Traffic between the Orient and Various Eastern Territories via Portland, Oregon, for the Fiscal Year ending June 30, 1901.

To—	Via—	Tons Carried.	U. P. Sys. Freight Revenue.
Missouri River Common Points Territory.	Granger	239. 68	2, 921. 32
	Salt Lake City		
	Spokane	25. 40	109. 46
	Wallula	109. 53	337. 31
	Total	374. 61	3, 368. 09
Mississippi River Common Points Territory.	Granger	917. 16	9, 725. 39
	Salt Lake City		
	Spokane	62. 85	261. 11
	Wallula	36. 85	125. 34
	Total	1, 016. 86	10, 111. 84
Chicago and Common Points Territory.	Granger	201. 23	2, 061. 24
	Salt Lake City		
	Spokane	347. 19	1, 308. 35
	Wallula	58. 36	195. 85
	Total	606. 78	3, 565. 44
Cincinnati, Detroit and Common Points Territory.	Granger	178. 76	1, 931. 31
	Salt Lake City		
	Spokane	68. 55	226. 37
	Wallula	16. 07	41. 95
	Total	263. 38	2, 199. 63

Statement of Tons Carried and Freight Revenue of the Union Pacific System, etc.—Continued.

To—	Via—	Tons Carried.	U. P. Sys. Freight Revenue.
Pittsburgh, Buffalo and Common Points Territory.	Granger	163. 46	1, 624. 07
	Salt Lake City		
	Spokane	76. 25	237. 82
	Wallula	52. 09	136. 45
	Total	291. 80	1, 998. 34
Boston, New York and Common Points Territory.	Granger	2, 935. 78	28, 119. 14
	Salt Lake City		
	Spokane	836. 05	2, 715. 90
	Wallula	149. 80	447. 58
	Total	3, 921. 63	31, 282. 62
Total	Granger	4, 636. 07	46, 382. 47
	Salt Lake City		
	Spokane	1, 416. 29	4, 859. 01
	Wallula	422. 70	1, 284. 48
Grand total		6, 475. 06	52, 525. 96

	Total Tons Carried.	Gross Operating Revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System for year ending June 30, 1901	8, 209, 209	43, 538, 181. 01
Ratio of Eastbound Oriental Freight Traffic via Portland to total tons of freight carried by and gross operating revenue of Union Pacific System	0. 08%	0. 12%

NOTE.—Union Pacific System includes Union Pacific Railroad Company, Oregon Short Line Railroad Company, and the rail and water lines of the Oregon Railroad & Navigation Company. Owing to the destruction of records by fire the total tons carried have been partly approximated. The gross operating revenue is correct.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor Union Pacific System and Southern Pacific Company.

7623 Q. Calling your attention to the Asiatic tonnage via San Francisco, 26,515 (and I am reading from Defendants' Exhibit 45–C, Supplemental, which you said was east and westbound,) in line with the suggestion of Mr. Severance that the Southern Pacific records and Union Pacific records were destroyed, will you state from what sources those figures were compiled?

A. The figures shown upon this statement were compiled from the records of the Chicago, Milwaukee & St. Paul Railway Company and the Chicago & Northwestern Railway Company, to determine the amount of Oriental business via the Union Pacific, Ogden and San Francisco, which was carried by these two lines. The total tonnage shown for the Union Pacific is (as stated in the statement) estimated on the assumption that the Milwaukee and Northwestern companies carried 70 per cent of the total.

Q. I notice that you have this detail worked up in two statements, one bearing the word "To" certain definite territories, and the other the word "From." Is that designed to indicate the eastbound and westbound movement?

A. That is designed to indicate the eastbound and westbound movement, as indicated more plainly in the headings of the two statements.

Mr. DUNNE. The westbound detail will be marked Defendants' Exhibit 45–E, Supplemental, (Stebbins), and the eastbound detail will be marked Defendants' Exhibit 45–F, Supplemental, (Stebbins). We offer them both in evidence.

Defendants' Exhibit 45–E, Supplemental, (Stebbins) is as follows:

7624 DEFENDANTS' EXHIBIT 45–E, SUPPLEMENTAL

(Stebbins)

Statement of Freight Traffic from points in Missouri River and Common Points Territory and points east thereof, via the Chicago, Milwaukee & St. Paul Railway and Chicago & North-Western Railway to the Orient, via Union Pacific Railroad, Ogden, Utah, and Southern Pacific Company—Pacific System, for the fiscal year ending June 30, 1901.

From—	Via Chicago, Milwaukee & St. Paul Railway.		Via Chicago & North-Western Railway.		Total.	
	Tons Carried.	Union Pacific Freight Revenue.	Tons Carried.	Union Pacific Freight Revenue.	Tons Carried.	Union Pacific Freight Revenue.
Missouri River and Common Points Territory						
Mississippi River and Common Points Territory			400.62	2,797.82	400.62	2,797.82
Chicago and Common Points Territory			4,005.70	29,624.79	4,005.70	29,624.79
Cincinnati, Detroit & Common Points Territory			199.18	1,865.42	199.18	1,865.42
Pittsburg, Buffalo and Common Points Territory			5,565.15	17,304.89	5,565.15	17,304.89
New York, Boston and Common Points Territory			53.16	624.60	53.16	624.60
Various Territories *	1,584.69	7,206.02			1,584.69#	7,206.02#
Total	1,584.69	7,206.02	10,223.81	52,217.52	11,808.50	59,423.54

* Not separated by territories. # Approximated.

Statement of Freight Traffic from points in Missouri River and Common Points Territory and points east thereof, etc.—Continued.

	Tons Carried.	Freight Revenue.
Estimated Total Westbound Oriental Freight Traffic via U. P. R. R., Ogden, and S. P. Co. from territories specified above, Union Pacific System Revenue.	16,869.29	84,890.77
Estimated Total Westbound Oriental Freight Traffic via U. P. R. R., Ogden, and S. P. Co. from territories specified above, Southern Pacific Company Revenue	16,869.29	72,314.36
	Total tons carried.	**Gross operating revenue.**
Total Tons of Freight carried by and Gross Operating Revenue of Union Pacific System for fiscal year ending June 30, 1901 (see Note 2)	8,209,209	43,538,181.01
Total Tons of Freight carried by and Gross Operating Revenue of Southern Pacific Company Lines for fiscal year ending June 30, 1901 (see Note 3)	14,272,278	77,244,898.18
Ratio of Estimated Total Westbound Oriental Freight Traffic via this route to Total Tons of Freight Carried by and Gross Operating Revenue of Union Pacific System	0.21%	0.19%
Ratio of Estimated Total Westbound Oriental Freight Traffic via this route to Total Tons of Freight carried by and Gross Operating Revenue of Southern Pacific Co. Lines	0.12%	0.09%

NOTE: 1. The Total Westbound Oriental Freight Traffic via U. P. R. R., Ogden, and S. P. Co. is estimated on the basis that the traffic carried by the C. M. & St. P. Ry. and C. & N. W. Ry. is 70% of the total traffic via this route.

2. Union Pacific System includes Union Pacific Railroad Company, Oregon Short Line Railroad Company, and the rail and water lines of the Oregon Railroad & Navigation Company. Owing to destruction of records by fire the total tons carried have been partially approximated. The gross operating revenue is correct.

3. Southern Pacific Lines include Southern Pacific Company—Pacific System and the lines east of El Paso in which the Southern Pacific Company has an interest, including the Sunset-Central Lines (so-called) and the Southern Pacific Company's Atlantic Steamship Lines.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor, Union Pacific System and Southern Pacific Company.

7625 Defendants' Exhibit 45–F, Supplemental, (Stebbins) is as follows:

7625½ DEFENDANT'S EXHIBIT 45–F, SUPPLEMENTAL
(Stebbins)

Statement of Freight Traffic from the Orient via Southern Pacific Company-Pacific System, Ogden, Utah, and Union Pacific Railroad to points in Missouri River and Common Points Territory and points east thereof, via the Chicago, Milwaukee & St. Paul Railway and Chicago & North-Western Railway, for the fiscal year ending June 30, 1901.

To—	Via Chicago, Milwaukee & St. Paul Railway.		Via Chicago & North-Western Railway.		Total.	
	Tons Carried.	Union Pacific Freight Revenue.	Tons Carried.	Union Pacific Freight Revenue.	Tons Carried.	Union Pacific Freight Revenue.
Missouri River and Common Points Territory						
Mississippi River and Common Points Territory						
Chicago and Common Points Territory			62.45	516.67	62.45	516.67
Cincinnati, Detroit and Common Points Territory	588.18	4,850.38	1,713.55	13,595.06	2,301.73	18,445.44
Pittsburg, Buffalo and Common Points Territory	36.13	261.95	143.92	976.21	180.05	1,238.16
New York, Boston and Common Points Territory	21.39	237.52	241.25	1,752.98	262.64	1,990.50
	258.90	1,736.46	3,686.54	37,339.95	3,945.44	39,076.41
Total	904.60	7,086.31	5,847.71	54,180.87	6,752.31	61,267.18

	Tons Carried.	Freight Revenue.
Estimated Total Eastbound Oriental Freight Traffic via S. P. Co., Ogden, and U. P. R. R. to territories specified above, Union Pacific System Revenue	9,646.16	87,524.54
Estimated Total Eastbound Oriental Freight Traffic via S. P. Co., Ogden, and U. P. R. R., to territories specified above, Southern Pacific Company Revenue	9,646.16	74,557.94

	Total tons carried.	Gross operating revenue.
Total Tons of Freight carried by and Gross Operating Revenue of Union Pacific System for fiscal year ending June 30, 1901 (See Note 2)	8,209.209	43,538,181.01
Total Tons of Freight carried by and Gross Operating Revenue of Southern Pacific Company Lines for fiscal year ending June 30, 1901 (See Note 3)	14,272.278	77,244,898.18
Ratio of Estimated total Eastbound Oriental Freight Traffic via this route to Total Tons of Freight carried by and Gross Operating Revenue of U. P. System	0.12%	0.20%
Ratio of Estimated Total Eastbound Oriental Freight Traffic via this route to Total Tons of Freight carried by and Gross Operating Revenue of Southern Pacific Co. Lines	0.07%	0.10%

NOTE 1.—The total Eastbound Oriental Freight Traffic via S. P. Co., Ogden, and U. P. R. R. is estimated on the basis that the traffic carried by the C. M. & St. P. Ry. and C. & N. W. Ry. is 70% of the total traffic via this route.

2.—Union Pacific System includes U. P. R. R. Co., O. S. R. R. Co. and the rail and water lines of the O. R. & N. Co. Owing to destruction of records by fire the total tons carried have been partially approximated. The gross operating revenue is correct.

3.—Southern Pacific Company Lines include Southern Pacific Co.-Pac. Sys. and the lines east of El Paso in which the Sou. Pac. Co. has an interest, including the Sunset-Central Lines (so-called) and the Sou. Pac. Co.'s Atlantic Steamship Lines.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor Union Pacific System and Southern Pacific Company.

7626 Q. I don't know that it is necessary to go into it, but it is the fact, I believe, that your own clerks were given access to the records of the Milwaukee & St. Paul and the Northwestern, and did the compilations?

A. That is correct.

Q. I show you Defendants' Exhibit 46, and ask you from what source the figures were compiled in reference to the Oregon Railroad & Navigation Company therein?

A. They were taken from the records of the Oregon Railroad & Navigation Company.

Q. Have you attached a detail to that exhibit?

A. I have.

Q. The detail in reference to Defendants' Exhibit 46, to which you have been referring, is the detail attached to Defendants' Exhibit 46 and which was put into the record on Mr. Stubbs' testimony, is it not?

A. That is correct.

Q. I call your attention to the statement in Defendants' Exhibit 46 reading as follows: "The showing for the O. R. & N. Co. is taken from auditor's statement." The statement that follows, beginning "The showing for the Southern Pacific," etc., is not your statement as I understand it, but simply Mr. Stubbs' estimate.

A. That was Mr. Stubbs' estimate.

The detailed statement last referred to by the witness was marked Defendants' Exhibit 46–A, Supplemental, (Stebbins), was offered in evidence by the defendants, and is as follows:

7627 DEFENDANTS' EXHIBIT 46A SUPPLEMENTAL

(Stebbins)

Statement of tonnage and Union Pacific System (The Oregon Railroad and Navigation Company's) revenue on freight traffic handled by The Oregon Railroad and Navigation Company's Steamship Line between San Francisco and Portland locally (not including traffic to or from points beyond Portland) for the fiscal year ending June 30, 1901.

From San Francisco to Portland.		From Portland to San Francisco.		Total.	
Tons carried.	Steamship revenue.	Tons carried.	Steamship revenue.	Tons carried.	Steamship revenue.
44,724	131,860.00	31,976	85,190.55	76,700	217,050.55

	Total tons carried.	Gross operating revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System, for year ending June 30, 1901 (see note)	8,209,209	43,538,181.01
Ratio of local freight traffic handled by O. R. & N. Co.'s Steamship Line between San Francisco and Portland to total tons of freight carried by and gross operating revenue of Union Pacific System	0.93%	0.50%

NOTE.—Union Pacific System Lines include Union Pacific Railroad Company, Oregon Short Line Railroad Company, and the rail and water lines of the

Oregon Railroad & Navigation Company. Owing to the destruction of certain records by fire, the total tons carried have been approximated. The gross operating revenue is correct.

Compiled by C. S. Stebbins, Assistant to General Auditor, Union Pacific System and Southern Pacific Company.

7628 Q. I show you Defendants' Exhibit 47, and call your attention to the statement of the O. R. & N. Company tonnage, 37,066, and the Union Pacific system earnings against it, and also to the statement "Deduct non-competitive, 30,474."

A. That statement was supported by a detailed statement in which a portion of the figures were shown as approximated. I now have a revised statement, in which actual figures are given for all amounts shown thereon.

Q. Have you a copy of the detail to which you have just referred, in which the actual is substituted for the approximate figures?

A. I have the detailed statement here.

Q. And have you carried the actual figures into the revised original statement?

A. I have done so.

Q. Those are the papers that you have just handed me?

A. They are.

The papers produced by the witness were marked, respectively, Defendants' Exhibit 47–A, Supplemental (Stebbins), and Defendants' Exhibit 47–B, Supplemental (Stebbins), and were offered in evidence by the Defendants.

Defendants' Exhibit 47–A, Supplemental (Stebbins) is as follows:

7629 DEFENDANTS' EXHIBIT 47–A, SUPPLEMENTAL

(Stebbins)

Sub-Division "D."

Lovett's question No. 13.

WILLAMETTE VALLEY TRAFFIC

Year Ending June 30, 1901.

Excluding traffic to and from local points on Union Pacific System, rail and water lines, West of Ogden.

Via O R & N Co	Tons	37,066	U. P. Sys. Earnings	$120,291.39
Average per Month	"	3,088	"	10,024.28
Deduct Non-Competitive	"	30,186	"	77,169.79
Remaining Competitive	"	6,880	"	43,121.60
Average per Month	"	573	"	3,593.47
Via Southern Pacific Estimated Average per Month	"	2,120	Earnings	12,196.50
Total average per Month	"	2,693	"	$15,789.97

Authority: For the O R & N Co. Auditor's statement attached.
For the *Southern Pacific:* Tonnage is estimated at 50% more than Steamship tonnage, and the earnings are computed at 90 cents per ton higher than the rate via O R & N Co.

7630 Defendants' Exhibit 47–B, Supplemental, (Stebbins) is as follows:

DEFENDANTS' EXHIBIT 47–B SUPPLEMENTAL

(Stebbins)

Statement showing tonnage and Union Pacific System freight revenue on certain freight traffic handled by the Oregon Railroad & Navigation Company's Willamette River boats for the fiscal year ending June 30, 1901.

	Tons Carried.	Union Pacific System Freight Revenue.
From San Francisco to the River	3,649	11,713.03
To " from "	23,992	71,899.58
From Ogden and Beyond to the River	592	16,615.54
To " from "	388	7,175.82
From All other points in Northwest to the River	755	3,912.49
To " from "	7,690	8,974.93
Total to the River	4,996	32,241.06
Total from the River	32,070	88,050.33
Grand Total	37,066	120,291.39
Deduct the following traffic to and from the paper mills at Oregon City which traffic is not competitive:		
From San Francisco to the River	2,512	6,553.68
To " from "	20,104	56,557.75
From Other Points to the River	798	851.27
To " from "	6,772	13,207.09
Total	30,186	77,169.79
Balance	6,880	43,121.60

	Total Tons Carried.	Gross Operating Revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific system for year ending June 30, 1901 (See Note 1)	8,209,209	43,538,181.01
Ratio of competitive freight traffic handled by O R & N Co.'s Willamette River boats to total tons of freight carried by and gross operating revenue of Union Pacific System	0.08%	0.10%

7631 NOTES:

1. Union Pacific System includes Union Pacific Railroad Company, Oregon Short Line Railroad Company, and the rail and water lines of the Oregon Railroad & Navigation Company. Owing to the destruction of certain records by fire, the total tons of freight have been partially approximated. The gross operating revenue is correct.

2. This statement does not include traffic to and from points on the O R & N rail and water lines, except San Francisco, or traffic to and from points on O S L R R west of Ogden.
3. "Non-competitive traffic from other points deducted, covers traffic from Northern Pacific and Columbia River points" via Portland.
4. "Non-competitive traffic to other points," deducted, covers traffic to Seattle, Tacoma and Australia via Seattle, to Salt Lake City, and to points on S. P. Co. via Portland.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor Union Pacific System and Southern Pacific Company.

7632 Q. You say these figures were compiled from the records?

A. Those figures were compiled from the records, except the one amount of the total tons carried of the Union Pacific system, which, as stated on the statement, is approximated.

Q. The revenue against it is actual?

A. The revenue against it is actual.

Q. I notice that in the statement, Defendants' Exhibit 47–A, Supplemental, you use the words, "Deduct non-competitive," and you also, in the supporting detail, use the expression, "Deduct the following traffic to and from the paper mills at Oregon City, which traffic is not competitive." I suppose, in fairness to Mr. Severance and to yourself, you are giving the figures here as the auditor, and these competitive questions you leave to the courts and lawyers; is that the idea?

A. That is correct. I compiled that statement upon the request of Mr. Stubbs. The foot-note on the statement shows exactly what business was deducted as non-competitive.

Q. And whether that business was competitive or non-competitive is a question that you are not testifying to?

A. No, I am expressing no opinion upon that.

By Mr. SEVERANCE:

Q. You will notice that on Defendants' Exhibit 47–B, Supplemental, it says "Deduct the following traffic to and from the paper mills at Oregon City, which traffic is not competitive." Are these figures that follow below that, aggregating 30,000 tons, the traffic referred to in that memorandum?

A. That is the traffic.

Q. So your deduction is entirely on the basis of that note?

7633 A. On the basis of that note and these notes at the foot of the statement, which show what has been deducted—notes 3 and 4.

Q. Note 3 says "'Non-competitive traffic from other points' deducted." That is 798 tons. "Non-competitive 'to other points,'" 6,772 tons, which covers traffic to Seattle, Tacoma and Australia via Seattle, to Salt Lake City, and to points on S. P. Co. via Portland?

A. Yes, sir.

Q. Therefore, the items that the paper mill notation refers to are the two items from San Francisco to the River, 2,512 tons?

A. It refers to all four of those items.

Q. Oregon City?

A. That is all Oregon City business.

Q. But the first two items are the San Francisco-Oregon City business, to and from?

A. That is right.

Q. Which is 2,512 tons, and the revenue $6,553.68; and 20,104 tons, with a revenue of $56,557.75?

A. That is correct.

Q. That is the San Francisco paper mill at Oregon City business, back and forth?

A. That is correct.

Q. And that statement, as I understand you, that that business is non-competitive, was a memorandum made by Mr. Stubbs?

A. That is Mr. Stubbs' memorandum, yes.

By Mr. DUNNE:

Q. I show you Defendants' Exhibit 48, headed "Lumber and Other Traffic from Portland to Ogden and Common Points and Beyond, via Southern Pacific Company and D. & R. G. R. R. and via Union Pacific system." Take the item "Via Southern Pacific, tons, 1,428, 7634 with Southern Pacific earnings against it; from what source did you compile those figures?

A. Those figures were furnished by the general auditor of the Denver & Rio Grande Railroad Company, the records of the Southern Pacific Company having been destroyed.

Q. Have you the detail that the general auditor of the D. & R. G. furnished?

A. I have a copy of it here.

Q. The item "Via Union Pacific" tons 13,768, you had the records for that, as you have already explained, hadn't you?

A. That is correct.

Q. That was compiled from the records?

A. Yes, sir.

Detailed statements last referred to by the witness were marked respectively Defendants' Exhibit 48–A, Supplemental (Stebbins), and Defendants' Exhibit 48–B, Supplemental (Stebbins), were offered in evidence by the defendants, and are as follows:

7635 **DEFENDANTS' EXHIBIT 48–A, SUPPLEMENTAL**

(Stebbins)

Tonnage and Revenue on Freight Traffic (principally lumber) from Portland, Oregon, to Utah Common Points, Colorado Common Points and Points east thereof, competitive between the Union Pacific System Lines and Southern Pacific Company Pacific System, for July, September and November, 1900, and January, March and April, 1901.

Month.	Via Union Pacific System Lines from Portland via Huntington.		Via Southern Pacific Co. Lines from Portland via Ogden and Rio Grande Western Railway.		Total Traffic from Portland.	
	Tons Carried.	Un. Pac. System Freight Revenue.	Tons Carried.	So. Pac. Co. Lines Freight Revenue.	Tons Carried.	Un. Pac. Sys. Lines and So. Pac. Co. Lines. Freight Revenue.
July, 1900	2,354	18,457.25	686	4,166.90	3,040	22,624.15
September, 1900	1,311	10,511.71	141	919.36	1,452	11,431.07
November, 1900	2,773	22,599.78	287	2,181.03	3,060	24,780.81
January, 1901	1,772	12,897.36	120	1,029.19	1,892	13,926.55
March, 1901	2,936	22,351.26	140	1,210.71	3,076	23,561.97
April, 1901	2,622	23,517.89	54	573.60	2,676	24,091.49
Total	13,768	110,335.25	1,428	10,080.79	15,196	120,416.04

	Total Tons Carried.	Gross Operating Revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System Lines (see Note 1) for same period	4,046,375	21,769,090.50
Total tons of freight carried by and gross operating revenue of Southern Pacific Company Lines (see Note 2) for same period	7,134,694	38,622,449.09
	%	%
Ratio of tonnage from Portland via Union Pacific System Lines to Total Tons of freight carried by U. P. System Lines	0.34	
Ratio of tonnage from Portland via Southern Pacific Company Lines to Total Tons of freight carried by S. P. Company Lines	0.02	
Ratio of freight revenue on tonnage from Portland via Union Pacific System Lines to gross operating revenue of U. P. System Lines		0.51
Ratio of freight revenue on tonnage from Portland via Southern Pacific Company Lines to gross operating revenue of S. P. Co. Lines		0.03

NOTES.—1. Union Pacific System includes Union Pacific Railroad Company, Oregon Short Line Railroad Company and the rail and water lines of the Oregon Railroad & Navigation Company. Owing to the destruction of certain records by fire, the total tons carried have been partially approximated. The gross operating revenue is one-half of the gross operating revenue for the year.

2. Southern Pacific Company Lines include the So. Pac. Co.-Pac. System and the lines east of El Paso in which the Southern Pacific Company has an interest, including the Sunset-Central Lines (so-called) and the Southern Pacific Company's Atlantic Steamship Lines. Owing to the destruction of certain records by fire, the total tons carried and gross operating revenue have been approximated. The gross operating revenue is one-half of the gross operating revenue for the year.
3. Owing to destruction by fire of the records of the Southern Pacific Co. the information in respect to business carried via Rio Grande Western Railway was obtained from the Denver & Rio Grande Railroad Company, successor to Rio Grande Western Railway Company.
4. Owing to destruction of records by fire the tons carried and freight revenue on traffic from Portland to Ogden, Utah, via Southern Pacific Company, are not included.
5. Railway material is not included.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor,
Union Pacific System and Southern Pacific Company.

7636 DEFENDANTS' EXHIBIT 48–B, SUPPLEMENTAL

(Stebbins)

Freight traffic originating at Portland, Ore., routed east, via Rio Grande Lines.

Section #1.

	Tons.	So. Pac. Revenue.
July, 1900.		
To Utah Points		
" Colorado "	165	$983.14
" Eastern "	494	2,936.08
	27	247.68
	686	4,166.90
September, 1900.		
To Utah Points		
" Colorado "	79	486.56
" Eastern "	54	339.55
	8	93.25
	141	919.36
November, 1900.		
To Utah Points		
" Colorado "	70	384.02
" Eastern "	45	288.85
	172	1,508.16
	287	2,181.03
January, 1901.		
To Utah Points		
" Colorado "	34	223.31
" Eastern "	43	299.08
	43	506.80
	120	1,029.19

Freight traffic originating at Portland, Ore., routed east, etc.—Continued.

	Tons.	So. Pac. Revenue.
March, 1901.		
To Utah Points	16	$111.15
" Colorado "	41	281.40
" Eastern "	83	818.16
	140	1,210.71
April, 1901.		
To Utah Points	0	.00
" Colorado "	17	118.01
" Eastern "	37	455.59
	54	573.60
Total	1,428	$10,080.79

NOTE.—See detail for partial information as to lumber shipments, included in above figures, full information not being available.

7637 Q. I show you Defendants' Exhibit 49, and will ask you what the figures therein were compiled from, both for Union Pacific and for Southern Pacific.

A. They were compiled from the records of the companies.

Q. As to the Southern Pacific, what were those figures compiled from? Do you have the records for that?

A. We have the records for the traffic via the Southern Pacific Company, except that one book of way-bills, for one month, from New Orleans to Oregon points, was missing from the files, and the statement is incomplete to the extent of whatever Portland traffic might have been covered by the missing way-bills.

Q. That would not make any substantial change in the figures, would it?

A. It was the opinion of the man who made the statement and did the detail work on it, that that would not change the total more than one per cent.

Q. You mean by that, Auditor Edwards of New Orleans?

A. Auditor Edwards of New Orleans.

Q. And he is here, is he not.

A. He is here.

Q. Then the Southern Pacific records for that year were obtainable at New Orleans for this statement covering the Southern Pacific Sunset-Route?

A. Via El Paso and New Orleans, yes. I wish to state, in respect to the total tons carried, of the Southern Pacific, which is shown to be 12,243,763, and which it is stated in the note upon the statement has been partially approximated, that those approximated figures were taken from a record which was made in 1900 or 1901.

7638 Upon examination of these figures critically, within the last few days, I am satisfied that they should be reduced 5 per cent.

Q. But the revenue is actual, is it not?

A. The revenue is actual. And that reduction of 5 per cent in the tons carried would not be sufficient to change the percentage which is based thereon, which is the ratio that the freight traffic between Portland and territory specified bears to the total tons of freight carried by Southern Pacific Company lines, which is three hundredths of one per cent. The change would not be sufficient to affect that percentage.

Mr. DUNNE. This detail will be marked Defendants' Exhibits 49–A, Supplemental (Stebbins) and 49–B, Supplemental (Stebbins, and are offered in evidence.

Defendants' Exhibit 49–A, Supplemental, (Stebbins) and 49–B, Supplemental (Stebbins) are as follows:

7639 DEFENDANTS' EXHIBIT 49–A, SUPPLEMENTAL (Stebbins)

Statement of freight traffic between Portland, Oregon, and points in Missouri River and Common Points Territory and points east thereof via Southern Pacific Company—Pacific System, El Paso, Texas, and New Orleans, Louisiana, for the fiscal year ending June 30, 1900.

	Westbound.		Eastbound.		Total.	
	Tons Carried.	S. P. Co. Freight Revenue.	Tons Carried.	S. P. Co. Freight Revenue.	Tons Carried.	S. P. Co. Freight Revenue.
Missouri River and Common Points Territory						
Mississippi River and Common Points Territory						
Chicago and Common Points Territory						
Cincinnati, Detroit and Common Points Territory	2.0	62.02			2.0	62.02
Pittsburgh, Buffalo and Common Points Territory	36.9	660.87	47.2	756.76	84.1	1,417.63
New York, Boston and Common Points Territory	12.8	192.00			12.8	192.00
	1,404.4	31,742.82	1,635.8	22,744.97	3,040.2	54,487.79
Total	1,456.1	32,657.71	1,683.0	23,501.73	3,139.1	56,159.44

	Total Tons Carried.	Gross Operating Revenue.
Total tons of freight carried by and gross operating revenue of Southern Pacific Company Lines for year ending June 30, 1900 (see Note)	12,243,763	63,920,414.22
Ratio of freight traffic between Portland and territories specified via El Paso and New Orleans to total tons of freight carried by and gross operating revenue of Southern Pacific Company Lines	0.03%	0.09%

NOTE.—Southern Pacific Company Lines include Southern Pacific Company—Pacific System and the lines east of El Paso in which the Southern Pacific Company has an interest, including the Sunset-Central Lines (so-called) and the Southern Pacific Company's Atlantic Steamship Lines.

Owing to the destruction of certain records by fire, the total tons carried have been partially approximated. The gross operating revenue is correct.

Compiled by: (Sgd) C. S. STEBBINS,
Assistant to General Auditor Union Pacific System and Southern Pacific Company.

7640 **DEFENDANTS' EXHIBIT 49–B, SUPPLEMENTAL.**

(Stebbins)

Statement of Tons Carried and Freight Revenue of the Union Pacific System on Freight Traffic between Portland, Oregon, proper, and various Eastern Territories via Granger, Wyoming, for the fiscal year ending June 30, 1900.

	Westbound.		Eastbound.		Total.	
	Tons Carried.	U. P. Sys. Freight Revenue.	Tons Carried.	U. P. Sys. Freight Revenue.	Tons Carried.	U. P. Sys. Freight Revenue.
Missouri River and Common Points Territory	3,575.80	76,592.82	1,242.84	12,372.61	4,818.64	88,965.43
Mississippi River and Common Points Territory	2,932.90	58,123.60	200.14	2,014.21	3,133.04	60,137.81
Chicago and Common Points	7,495.00	133,151.94	1,476.30	15,230.80	8,971.30	148,382.74
Cincinnati, Detroit and Common Points	2,945.47	53,985.11	96.38	1,402.74	3,041.85	55,447.85
Pittsburgh, Buffalo and Common Points	3,837.51	53,078.89	10.48	378.29	3,847.99	53,457.18
New York, Boston and Common Points	7,863.36	169,648.84	929.29	15,850.65	8,792.65	185,499.49
Total	28,650.04	544,581.20	3,955.43	47,309.30	32,605.47	591,890.50

	Total Tons Carried.	Gross Operating Revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System for year ending June 30, 1900. (see Note)	7,380,796	39,147,697.33
Ratio of freight traffic between Portland and territories specified via Granger to total tons of freight carried by and gross operating revenue of Union Pacific System	0.44%	1.51%

NOTE.—Union Pacific System includes Union Pacific Railroad Company, Oregon Short Line Railroad Company and the rail and water lines of The Oregon Railroad & Navigation Company. Owing to the destruction of certain records by fire the total tons carried have been partially approximated. The gross operating revenue is correct.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor Union Pacific System and Southern Pacific Company.

7641 Q. I show you Defendants' Exhibit 50, headed "Traffic to and from Portland, and Atlantic Seaboard, Pittsburgh, and Ohio River Territories." I notice thereon a statement "Via Union Pacific (Is included in Answer to "F")." "F" is Defendants' Exhibit 49, is it not—the last exhibit you spoke of?

A. That is correct.

Q. I call your attention to the item "Via Rio Grande and Southern Pacific," in Defendants' Exhibit 50. How were those figures compiled?

A. They were furnished by the Denver & Rio Grande Railroad Company. The figures for the westbound traffic, 1,958 tons, are a

correct transcript of the figures received from the Denver & Rio Grande Railroad Company. The traffic eastbound, which is marked on the statement as "Estimated," was incorrectly drawn off from the Denver & Rio Grande statement. I have here a corrected statement, in which the correct figures for the Denver & Rio Grande business are used. The figures received from that company, applying to six months' business only, were doubled to make the estimated figures for the year.

Q. That is not quite clear to me. I find in Defendants' Exhibit 50, "Estimated, eastbound, via Rio Grande & Southern Pacific, 774 tons."

A. That should be 740 tons.

Q. Have you the detail attached to that?

A. I have the detail.

Mr. SEVERANCE. Would it make any difference with the earnings?

WITNESS. The correct statement of earnings is $7,259.28, instead of $1,533.74. On that statement, also, the total tons carried
7642 by Southern Pacific Company lines should be reduced about 5 per cent. This, however, would not affect the percentage which is based upon the tonnage.

The details last referred to by the witness were marked, respectively, Defendants' Exhibit 50–A, Supplemental (Stebbins), and 50–B, Supplemental (Stebbins), were offered in evidence by the defendants, and are as follows:

DEFENDANTS' EXHIBIT 50–A, SUPPLEMENTAL.

(Stebbins.)

Lovett's question No. 13.

Sub-Division "G".

TRAFFIC.

To and from Portland and Atlantic Seaboard, Pittsburgh, and Ohio River Territories.

The showing below includes all traffic between Portland and points on and east of Missouri River, year ending June 30, 1900.

(Is included in answer to "F.")

Via Union Pacific (Is included in answer to "F.")				
Via Rio Grande and Southern Pacific W. B.	Tons	1958	S. P. Earnings	$19,192.83
Estimated E. B.	"	740	" "	7,259.28
Total		2698	" "	$26,452.11
Average per month	Tons	225	S. P. Earnings	2,204.34

Authority: Auditor's statements attached. Owing to destruction of S. P. records this information was furnished by D. & R. G. R. R. Co. See A. S. Hughes' letter to J. C. Stubbs, Sept. 9, 1909, and accompanying papers, which are attached as vouchers to Sub-Division "E". The Eastbound Tonnage and Earnings were given for six months only. That showing has been Doubled to get the above exhibit.

7643 DEFENDANTS' EXHIBIT 50–B, SUPPLEMENTAL.

(Stebbins)

Statement of freight traffic between Portland, Oregon, and Missouri River and Common Points Territory and points east thereof, via Southern Pacific Company Lines via Ogden and Rio Grande Western Railway, for year ending June 30, 1900.

Westbound.		Eastbound.		Total.	
Tons Carried.	S. P. Co. Freight Revenue.	Tons Carried.	S. P. Co. Freight Revenue.	Tons Carried.	S. P. Co. Freight Revenue.
1,958	19,192.83	740	7,259.28	2,698	26,452.11

	Total Tons Carried.	Gross Operating Revenue.
Total tons of freight carried by and gross operating revenue of Southern Pacific Company Lines, for year ending June 30, 1900 (See Note 1).....	12,243,763	63,920,414.22
Ratio of freight traffic between Portland and territory specified, via Ogden, and Rio Grande Western Railway, to total tons of freight carried by and gross operating revenue of Southern Pacific Company lines.....	0.02%	0.04%

NOTES.—1. Southern Pacific Company Lines include the Southern Pacific Company—Pacific System and the lines east of El Paso in which the Southern Pacific Company has an interest, including the Sunset-Central Lines (so-called) and the Southern Pacific Company's Atlantic Steamship Lines. Owing to destruction of records by fire the total tons carried have been partially approximated. The gross operating revenue is correct.

2. Owing to destruction by fire of the records of the Southern Pacific Company, the information in respect to business carried via Rio Grande Western Railway was obtained from the Denver & Rio Grande Railroad Company, successor to Rio Grande Western Railway Company. Figures for eastbound traffic were given for six months only and these were doubled for the year.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor Union Pacific System and Southern Pacific Company.

7644 An adjournment was then taken until Wednesday, March 2, 1910, at 10:30 A. M.

7645 ROOM 720, CUSTOM HOUSE, NEW YORK CITY,
Wednesday, March 2, 1910, 10.30 a. m.

The hearing was resumed before the Special Examiner, Hon. Sylvester G. Williams, at the above time and place.

Present: On behalf of the Complainant, Mr. C. A. Severance, Mr. G. E. Husted; on behalf of the Defendants, Mr. Peter F. Dunne and Mr. N. H. Loomis.

C. S. STEBBINS

recalled.

Direct examination, resumed, by Mr. DUNNE:

Q. I call your attention to Defendants' Exhibit 51, which is headed "Hops and Wool to the East." The figures for the Union Pacific are 1,290 tons. What were those figures and the figures for the revenue compiled from?

A. Those were compiled from the records of the companies.

Q. Have you the detail attached?

A. The detail is attached. There is an error in the footing of the second column.

Q. Please explain that.

A. As originally introduced, it read, Total, $6,826.69. The total should be $6,978.12. This was a mistake of the typewriter in copying.

Q. How were the figures compiled for the Southern Pacific and El Paso, 128 tons?

A. Those were compiled from the records of the companies.

Q. You have already explained that those records were accessible?

A. Yes.

Q. As to the detail for the Southern Pacific and D. & R. G., how was that compiled?

7646 A. Those figures were furnished by the general auditor of the Denver & Rio Grande Railroad Company.

Mr. SEVERANCE. Have you your letter addressed to him, requesting that information?

Mr. DUNNE. We have not the letter, but we have his answer.

WITNESS. I have a copy of his letter and of our letter, at the hotel, but not here; I have a copy of our letter to the general auditor of the D. & R. G., at the hotel, but not here; but I have here a copy of his letter forwarding the information.

Mr. SEVERANCE. And you could give us the other?

WITNESS. I can give you the other.

Mr. DUNNE. I offer in evidence this detail, as Defendants' Exhibit 51-A, Supplemental (Stebbins).

WITNESS. In respect to Defendants' Exhibit 51-A, Supplemental, I should explain that, as stated in respect to similar figures appearing in previous exhibits, the total tons of freight carried by Southern Pacific Company lines for the year ending June 30, 1900, should be reduced about 5 per cent, I think. The approximated figures appear-

ing in the statement were taken from a record made in 1901. They were approximated figures. I am satisfied that the approximation was too high. The figures should be reduced about 5 per cent. This, however, would make no change in the percentage which is based upon that tonnage, unless the percentage were carried out to four places of decimals instead of three.

Defendants' Exhibit 51–A, Supplemental (Stebbins) is as follows:

7647 DEFENDANTS' EXHIBIT 51–A, SUPPLEMENTAL.

(Stebbins)

Tonnage and Freight Revenue on Hops and Wool Traffic from Portland, Oregon, to Missouri River and East thereof, via the Union Pacific System Lines and Southern Pacific Company Lines, for fiscal year ending June 30, 1900.

Commodity.	Via Un. Pac. Sys. Lines.		Via So. Pac. Lines via El Paso and New Orleans.		Via So. Pac. Co. Lines via Ogden and Rio Grande Western Ry.		Total from Portland.	
	Tons Carried.	Un. Pac. Sys. Lns. Freight Revenue.	Tons Carried.	So. Pac. Lines Freight Revenue.	Tons Carried.	So. Pac. Lines Freight Revenue.	Tons Carried.	Union Pacific Sys. and So. Pac. Lines Freight Revenue.
Hops	8	151.43	3	94.75	274	2,881.32	285	3,127.50
Wool	1,282	6,826.69	125	4,361.75	29	181.47	1,436	11,369.91
Total	1,290	6,978.12	128	4,456.50	303	3,062.79	1,721	14,497.41

	Total Tons Carried.	Gross Operating Revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System Lines (see Note 1) for year ending June 30, 1900	7,380,796	39,147,697.33
Total tons of freight carried by and gross operating revenue of Southern Pacific Company Lines (see Note 2) for year ending June 30, 1900	12,243,763	63,920,414.22
Ratio of tonnage from Portland via Union Pacific System Lines to total tons of freight carried by Union Pacific System Lines	0.018%	
Ratio of tonnage from Portland via Southern Pacific Company Lines to total tons of freight carried by Southern Pacific Company Lines	0.004%	
Ratio of freight revenue on tonnage from Portland via Union Pacific System Lines to gross operating revenue Union Pacific System Lines		0.018%
Ratio of freight revenue on tonnage from Portland via Southern Pacific Company lines to gross operating revenue Southern Pacific Lines		0.012%

NOTES.—1. Union Pacific System includes Union Pacific Railroad Company, Oregon Short Line Railroad Company and the rail and water lines of The Oregon Railroad & Navigation Company. Owing to the destruction of certain records by fire, the total tons carried have been partially approximated. The gross operating revenue is correct.

2. Southern Pacific Company Lines include the Southern Pacific Company—Pacific System and the Lines east of El Paso in which the Southern Pacific Company has an interest, including the Sunset-Central Lines (so-called) and the Southern Pacific Company's Atlantic Steamship Lines. Owing to the destruction of records by fire, the total tons carried have been partially approximated. The gross operating revenue is correct.

3. Owing to destruction by fire of the records of the Southern Pacific Company the information in regard to business carried via Rio Grande Western Railway was obtained from the Denver & Rio Grande Railroad Company, successor to the Rio Grande Western Railway Company.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor,
Union Pacific System and Southern Pacific Co.

7648 Q. I call your attention to Defendants' Exhibit 52 (which is marked with the letter "I") and ask you how the detail with reference to the O. R. & N. Company was compiled.

A. The figures representing traffic of the O. R. & N. Company were compiled from the records of that company.

Q. And how were the figures for the Southern Pacific and Northern Pacific obtained?

A. The records of the Southern Pacific Company having been destroyed, these figures were obtained from the comptroller of the Northern Pacific Railway Company.

Q. Those Northern Pacific figures relate to points served by the Northern Pacific rails and any other railroad?

A. The information for the Northern Pacific and Southern Pacific traffic is given just as it was obtained from the Northern Pacific Railway Company. I understand that the term "Competitive points" used in respect to such information relates to points served by some other road than the Northern Pacific which could reach San Francisco over its own rails or over its connections.

Q. Have you the Northern Pacific statement?

A. I have the original statement and also a copy of it.

Mr. DUNNE. This I will offer as Defendants' Exhibit 52–A, Supplemental (Stebbins).

Defendants' Exhibit 52–A, Supplemental (Stebbins) is as follows:

7649 DEFENDANTS' EXHIBIT 52–A. SUPPLEMENTAL

(Stebbins)

Tonnage and freight revenue of traffic from and to San Francisco Bay Points via Portland, Oregon, (not via Huntington or Ogden) to and from points on Northern Pacific Railway east of Pasco, Washington.

Via Southern Pacific Company—Pacific System and Northern Pacific Railway, for calendar year 1900.

Westbound.		Eastbound.					
From competitive points west of eastern terminals.		To competitive points in Montana.		To competitive points in Washington, Idaho, Oregon and British Columbia.		Total.	
Tons carried.	S. P. Co. freight revenue.	Tons carried.	S. P. Co. freight revenue.	Tons carried.	S. P. Co. freight revenue.	Tons carried.	S. P. Co. freight revenue.
323	1,587.54	1,634	8,491.46	445	2,758.09	2,402	12,837.09

	Total tons carried.	Gross operating revenue.
Total tons of freight carried by and gross operating revenue of Southern Pacific Company Lines for year ending June 30, 1900 (see Note 1)	12,243,763	63,920,414.22
Ratio of freight traffic between San Francisco Bay Points and points specified to total tons of freight carried by and gross operating revenue of Southern Pacific Company Lines	0.02%	0.02%

Via the Oregon Railroad & Navigation Company for fiscal year ending June 30, 1900

Westbound and eastbound.							
Between San Francisco and Spokane.		Between San Francisco and Pendleton, Athena, Walla Walla, Wallula, Waitsburg, Huntsville, Longs, Dayton, Lewiston, Pullman, Moscow, Connell, Garfield, Farmington.		Between San Francisco and points between Harrison and Burke and Mullan.		Total.	
Tons carried.	O. R. & N. Steamship revenue.	Tons carried.	O. R. & N. Steamship revenue.	Tons carried.	O. R. & N. Steamship revenue.	Tons carried.	O. R. & N. Steamship revenue.
8,184	18,800.78	7,514	17,118.54	1,351	3,319.60	17,049	39,238.92

	Total tons carried.	Gross operating revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System for year ending June 30, 1900 (see Note 2)	7,380,796	39,147,697.33
Ratio of freight traffic between San Francisco Bay Points and points specified to total tons of freight carried by and gross operating revenue of Union Pacific System	0.23%	0.10%

NOTES.—1. Southern Pacific Company Lines include the Southern Pacific Company—Pacific System and the lines east of El Paso in which the Southern Pacific Company has an interest, including the Sunset-Central Lines (so-called) and the Southern Pacific Company's Atlantic Steamship Lines. Owing to the destruction of records by fire, the total tons carried have been partially approximated. The gross operating revenue is correct.

2. Union Pacific System includes Union Pacific Railroad Company, Oregon Short Line Railroad Company and the rail and water lines of The Oregon Railroad & Navigation Company. Owing to the destruction of certain records by fire, the total tons carried have been partially approximated. The gross operating revenue is correct.

3. Owing to destruction by fire of the records of the Southern Pacific Company, the information in respect to business carried via Southern Pacific Company was obtained from the Northern Pacific Railway Company, which carried this traffic from Portland.

Compiled by:

(Sgd) C. S. STEBBINS.
Assistant to General Auditor Union Pacific System and Southern Pacific Company.

7650 Q. I now call your attention to Defendants' Exhibit 53. I believe that is the last, is it not?

A. Except the "X," "Y" and "Z" statements.

Q. Referring to Defendants' Exhibit 53, the figures for the Southern Pacific Gulf routes were compiled from the records of the Company, I assume?

A. That is correct.

Q. That is correct in respect both to Colorado and Utah, is it not?

A. That is correct, yes, sir.

Q. These are the records that you stated were accessible—the New Orleans records?

Mr. SEVERANCE. That is, the Southern Pacific part.

Mr. DUNNE. Yes.

Q. Is that correct?

A. That is correct. I have a copy of the auditor's statement here—the auditor of the Atlantic steamship lines.

Q. The supplemental statement I am now offering refers to business from and to Utah points. Have you a supplemental statement for Colorado points, too?

A. Yes.

Mr. DUNNE. The supplemental statement as to Utah points will be marked Defendants' Exhibit 53–A, Supplemental (Stebbins); the supplemental statement as to Colorado points will be marked Defendants' Exhibit 53–B, Supplemental (Stebbins); and they are both offered in evidence.

Defendants' Exhibits 53–A, Supplemental (Stebbins) and 53–B, Supplemental (Stebbins), are as follows:

7651 DEFENDANTS' EXHIBIT 53–A, SUPPLEMENTAL

(Stebbins)

SOUTHERN PACIFIC COMPANY

ATLANTIC STEAMSHIP LINES

Statement of tonnage and revenue accruing to system lines on business from and to Utah points, for fiscal year ending June 30th, 1909.

NORTH BOUND

Tons.	Ship Revenue.	Rail Revenue.	Total System Revenue
180	$269.59	$210.98	$480.57

SOUTH BOUND

1,632	$13,093.22	$11,279.69	$24,372.91

TOTAL

1,812	$13,362.81	$11,490.67	$24,853.48

AUDITOR'S OFFICE,
New York, N. Y., Jan. 12th, 1910.

(Sgd) B. G. BARTHOLOMEW,
Auditor.

7652 DEFENDANTS' EXHIBIT 53-B, SUPPLEMENTAL

(Stebbins)

SOUTHERN PACIFIC COMPANY

ATLANTIC STEAMSHIP LINES

Statement of tonnage and revenue accruing to system lines on business from and to Colorado points, for fiscal year ending June 30, 1906.

NORTH BOUND.

Tons.	Ship revenue.	Rail revenue.	Total system revenue.
6,938	$20,411.08	$15,506.81	$35,917.89

SOUTH BOUND.

14,673	94,391.13	71,864.13	166,255.26

TOTAL.

21,611	114,802.21	87,370.94	202,173.15

AUDITOR'S OFFICE,
New York, N. Y., Jan. 12th, 1910.

(Sgd) B. G. BARTHOLOMEW,
Auditor.

7653 Q. Referring to Supplemental exhibits 53-A and 53-B, which are headed "Northbound" and "Southbound", just give us the direction of the northbound and the direction of the southbound, with reference to New York.

A. The term "Northbound" means business coming to New York from the south, or, in other words, eastbound business from Utah or Colorado to New York. "Southbound" business is business from New York to Utah or Colorado.

Q. Recurring to Defendants' Exhibit 53, the figures via Union Pacific, all-routes, are stated for October 1906 and April 1907. Those figures you took from the statements introduced in evidence by the Government?

A. That is correct.

Q. That you compiled.

A. That is correct.

Q. The statements "X", "Y" and "Z" introduced in evidence, are mere arithmetical computations that you have made, are they not?

A. That is correct.

Mr. SEVERANCE. Where are they?

Mr. DUNNE. Defendants' Exhibit 54.

Q. The statement of the total revenue of the Southern Pacific and of the total revenue for the Union Pacific, in those statements, from what source did you derive those figures?

A. Those were taken from records of the companies.

Q. Could you state at this time the total freight revenue of the Southern Pacific and of the Union Pacific for the years 1900 and 1901—simply the freight revenue? I think it has been already stated, but you might state it again if you have it before you.

A. For the union Pacific system, the total freight revenue for the fiscal year ending June 30, 1900, was $28,321,016.06; for
7654 the year ending June 30, 1901, $32,025,792.62. Southern Pacific Company lines for the year ending June 30, 1900, $41,220,025.59; for the fiscal year ending June 30, 1901, $51,946,343.05.

Q. Have you a statement of the Willamette valley business of the Southern Pacific Company by the Sunset Route, from the so-called River points, and from points in the Willamette valley which are not served by boat?

A. I have a statement.

Q. What time does it cover?

A. The fiscal year ending June 30, 1900.

Q. How was that statement compiled?

A. From the records of the companies.

Q. Have you the detail of that statement, station by station?

A. I have the detail, station by station.

Q. What records of the company do you refer to for this statement? Where were those records accessible?

A. The records are in the custody of the auditor's office at New Orleans.

Q. And by whom was this detail, station by station, prepared?

A. That was prepared by the auditor of the Southern Pacific Company's lines in Louisiana.

Q. Is that Mr. Edwards?

A. Mr. Edwards.

Q. And he is here?

A. He is here. The statement is complete, except that one book of way-bills, New Orleans to Oregon points, for August, 1899, is missing from the files. The statement is incomplete to the extent of the traffic covered by such way-bills.

Q. Would that make any appreciable difference in the result?

A. A very small per cent. It was the opinion of the auditor
7655 of the Louisiana lines who supervised the compilation of this statement, that it would not make a difference of more than one per cent.

Q. The statement itself, apart from the data, contains an expression "To points served by Willamette River Boats," and "To points on S. P. Co. not served by Willamette River Boats." I find that in the statement of the westbound business. I find a similar statement

in your statement of the eastbound business. The points designated in that statement are mentioned, station by station, in the detail, are they not?

A. That is correct.

Mr. DUNNE. I will offer in evidence the statement touching the westbound business, as Defendants' Exhibit 55–A, Supplemental (Stebbins); the statement of the eastbound business, as Defendants' Exhibit 55–B, Supplemental (Stebbins); the detail for the west bound business as Defendants' Exhibit 55–C, Supplemental (Stebbins), and the detail for the eastbound business as Defendants' Exhibit 55–D, Supplemental (Stebbins).

The exhibits last offered in evidence by the Defendants are as follows:

7656 DEFENDANTS' EXHIBIT 55–A, SUPPLEMENTAL

(Stebbins)

Statement of total freight traffic to points in Willamette Valley, Oregon (excluding Portland) via Southern Pacific Company—Pacific System, El Paso, Texas, and New Orleans, Louisiana, from Eastern Territories as specified below, for fiscal year ending June 30, 1900.

From—	Tons Carried.	S. P. Co. Freigh Revenue.
Chicago and Common Points Territory	.3	9.32
Cincinnati, Detroit and Common Points Territory	1.9	37.19
Pittsburg, Buffalo and Common Points Territory	.6	13.45
New York, Boston and Common Points Territory	196.4	6,091.36
Total	199.2	6,151.32
To points served by Willamette River Boats	139.5	3,872.02
To points on S P Co. not served by Willamette River Boats	59.7	2,279.30
Total	199.2	6,151.32

NOTE.—One book of waybills from New Orleans to Oregon points for August 1899 is missing and this statement is incomplete to the extent of the traffic covered by such waybills.

Compiled by:

(Sgd) C. S. STEBBINS.
Assistant to General Auditor, Union Pacific System and Southern Pacific Company.

7657 DEFENDANTS' EXHIBIT 55–B, SUPPLEMENTAL

(Stebbins)

Statement of total freight traffic from points in Willamette Valley, Oregon (excluding Portland) via Southern Pacific Company—Pacific System, El Paso, Texas, and New Orleans, Louisiana, to Eastern Territories as specified below, for fiscal year ending June 30, 1960.

To—	Tons Carried.	S. P. Co. Freight Revenue.
Cincinnati, Detroit and Common Points Territory	151. 9	3, 226. 46
Pittsburg, Buffalo and Common Points Territory	39. 9	765. 36
New York, Boston and Common Points Territory	3, 792. 2	88, 747. 78
Total	3, 984. 0	92, 739. 60
From points served by Willamette River Boats	1, 457. 5	34, 967. 76
From points on S. P. Co. not served by Willamette River Boats	2, 526. 5	57, 771. 84
Total	3, 984. 0	92, 739. 60

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor, Union Pacific System and Southern Pacific Co.

7658 DEFENDANTS' EXHIBIT 55-C, SUPPLEMENTAL

(Stebbins)

Statement of total freight traffic to points in Willamette Valley, Oregon (excluding Portland), via Southern Pacific Company—Pacific System, El Paso, Texas, and New Orleans, Louisiana, from Eastern Territories as specified below, for fiscal year ending June 30, 1960.

	To points served by Willamette River boats.		To points on S. P. Co. not served by Willamette River boats.	
	Tons carried.	S. P. Co. freight revenue.	Tons carried.	S. P. Co freight revenue.
From Chicago and common points territory to—				
Newburg	0. 1	1. 81		
Salem	0. 1	1. 96		
Eugene			0. 1	5. 55
Total	0. 2	3. 77	0. 1	5. 55
From Cincinnati, Detroit and common points territory to—				
Oregon City	1. 3	22. 24		
Salem	. 3	9. 35		
Hillsboro			0. 1	1. 93
Lebanon			0. 1	1. 87
Turner			0. 1	1. 80
Total	1. 6	31. 59	0. 3	5. 60

Statement of total freight traffic to points in Willamette Valley, Oregon (excluding Portland), etc.—Continued.

	To points served by Willamette River boats.		To points on S. P. Co. not served by Willamette River boats.	
	Tons carried.	S. P. Co. freight revenue.	Tons carried.	S. P. Co. freight revenue.
From Pittsburg, Buffalo and common points territory to—				
Corvallis	0.2	5.23		
Eugene			0.4	8.22
Total	0.2	5.23	0.4	8.22
From New York, Boston and common points territory to—				
Albany	27.2	985.71		
Corvallis	4.2	184.37		
Independence	.6	24.59		
Newburg	.3	10.64		
Oregon City	62.4	1,613.03		
Salem	42.8	1,013.09		
Aumesville			0.1	6.43
Brooks			0.1	3.38
Brownsville			2.6	100.04
Car Shops			.4	3.03
Cottage Grove			2.4	108.03
Carlton			.1	2.40
Dilley			.1	7.42
Derry			.1	2.50
Dallas			21.3	716.70
Eugene			17.7	710.38
Forest Grove			.1	2.90
7659 Gervais			0.1	8.10
Hillsboro			4.7	172.07
Harrisburg			1.0	39.33
Halsey			.5	23.85
Hubbard			.1	5.20
Irving			.3	14.30
Jefferson			.1	3.15
Lebanon			2.1	102.65
McMinnville			3.1	138.74
Mt. Angel			.2	7.38
McCoy			.1	2.45
Monmouth			.3	12.20
Natron			.1	2.60
Reidsville			.2	10.03
Scio			.1	2.60
Silverton			.1	2.60
Turner			.1	2.60
Woodburn			.7	46.87
Total	137.5	3,831.43	58.9	2,259.93
Grand total	139.5	3,872.02	59.7	2,279.30

NOTE.—One book of waybills from New Orleans to Oregon points for August 1899 is missing and this statement is incomplete to the extent of the traffic covered by such waybills.

Compiled by: (Sgd) C. S. STEBBINS,
Assistant to General Auditor Union Pacific System and Southern Pacific Company.

7660 DEFENDANTS' EXHIBIT 55–D, SUPPLEMENTAL

(Stebbins)

Statement of total freight traffic from points in Willamette Valley, Oregon (excluding Portland), via Southern Pacific Company—Pacific System, El Paso, Texas, and New Orleans, Louisiana, to Eastern Territories as specified below, for fiscal year ending June 30, 1900.

	From points served by Willamette River boats.		From points on S. P. Co. not served by Willamette River boats.	
	Tons carried.	S. P. Co. freight revenue.	Tons carried.	S. P. Co. freigh t revenue.
To Cincinnati, Detroit, and Common Points Territory from—				
Albany	12.1	162.02		
Corvallis	15.9	369.08		
Independence	4.2	88.12		
Oregon City	5.5	170.38		
Salem	60.0	1,178.38		
Aurora			15.9	383.65
Gervais			1.2	24.93
McMinnville			7.4	143.53
Mt. Angel			.1	2.88
Pratum			.1	4.43
Reidsville			10.3	242.11
Sherwood			2.1	48.19
Tauchmans			4.9	103.22
West Stayton			.4	13.79
Woodburn			11.8	291.75
Total	97.7	1,967.98	54.2	1,258.48
To Pittsburg, Buffalo, and Common Points Territory from—				
Albany	2.8	58.54		
Independence	11.8	199.83		
Newburg	.1	1.40		
Oregon City	1.5	45.45		
Salem	13.0	235.95		
Dallas			.8	13.91
Gervais			8.9	189.50
Woodburn			1.0	20.78
Total	29.2	541.17	10.7	224.19
7661 To New York, Boston, and Common Points Territory from—				
Albany Junction	120.3	2,394.73		
Butteville	15.2	402.52		
Cane Landing	1.6	42.51		
Corvallis	50.6	1,034.64		
Champoog	1.6	41.95		
Dayton	9.6	216.78		
Gearin Landing	5.4	140.80		
Herris Landing	2.3	31.59		
Independence	254.0	5,554.30		
New Era	4.5	120.22		
Newburg	19.4	464.26		
Oregon City	118.0	3,971.64		
Reeds Landing	15.6	177.85		
Steamer Pomona	4.2	65.08		
Salem	673.3	16,907.40		
Steamer Elmore	21.5	578.55		

Statement of total freight traffic from points in Willamette Valley, Oregon (excluding Portland), etc.—Continued.

	From points served by Willamette River boats.		From points on S. P. Co. not served by Willamette River boats.	
	Tons carried.	S. P. Co. freight revenue.	Tons carried.	S. P. Co. freight revenue.
To New York, Boston, and Common Points Territory from—(Cont'd).				
Steamer Gypsy	.5	13.47		
Wilsonville	9.8	263.58		
Wheatland	3.2	36.74		
Airlee			12.7	198.14
Amity			18.8	153.57
Aumsville			.1	2.05
Aurora			69.0	2,016.54
Ballston			58.0	1,370.46
Barlow			1.5	20.57
Bertha			7.8	216.33
Beaverton			3.8	80.11
Brant			1.6	38.06
Broodmead			.9	10.54
Brownsville			.1	11.48
Brooks			119.1	2,221.04
Canby			137.5	4,052.67
Carlton			67.5	1,631.54
Cornelius			20.5	553.09
Crowley			11.7	243.73
Creswell			12.4	271.52
Dallas			520.9	9,327.82
Derry			79.6	1,897.78
Dundee Junction			14.5	379.38
Downs			47.9	1,065.87
Eugene			82.0	2,118.34
Fairgrounds			11.1	291.84
Forest Grove			36.2	833.97
Galbreath			9.3	241.77
Gaston			29.8	784.69
7662 Gervais			70.3	1,841.05
Goshea			16.3	489.15
Harrisburg			13.6	374.65
Hillsboro			33.8	867.09
Hubbard			59.5	1,764.24
Jefferson			11.4	339.31
Jefferson City			1.0	32.29
Lafayette			20.8	521.43
Lebanon			38.8	658.03
Lincoln			10.0	248.45
Macleay			3.1	87.53
Marion			1.7	44.26
Middleton			4.6	121.82
Monmouth			21.0	406.07
Morgan			.2	2.17
McKee			14.0	318.63
McCoy			22.7	491.24
McMinnville			48.5	765.89
Mt. Angel			34.2	880.90
Natron			.1	2.05
North Yamhill			205.6	5,160.28
Perrydale			7.9	156.78
Pratum			4.3	99.15
Reidsville			28.7	776.02
Sherwood			16.7	437.08
Sheridan			75.8	1,375.81

Statement of total freight traffic from points in Willamette Valley, Oregon (excluding Portland), etc.—Continued.

	From points served by Willamette River boats.		From points on S. P. Co. not served by Willamette River boats.	
	Tons carried.	S. P. Co. freight revenue.	Tons carried.	S. P. Co. freight revenue.
To New York, Boston, and Common Points Territory from—				
Shaw			4.5	72.30
Silverton			48.8	1,173.07
Spring Brook			19.4	364.51
Springfield			.1	2.16
Simpson			26.2	524.77
Switzerland			7.1	191.41
Surver			8.8	131.31
Turner			4.1	79.43
Tuckers			8.2	217.27
Whitson			7.1	133.40
West Stayton			2.8	115.82
Woodburn			185.6	4,989.45
Total	1,330.6	32,458.61	2,461.6	56,289.17
Grand total	1,457.5	34,967.76	2,526.5	57,771.84

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor Union Pacific System and Southern Pacific Company.

7663 Q. For the sake of clearing up a statement in Defendants' Exhibit 47, "Via Southern Pacific, Estimated Average per Month, Tons, 2,120," I will ask you to turn to the detail and state the factors of the 2,120.

A. That is an estimate made by Mr. Stubbs; and his explanation is that the tonnage is estimated at 50 per cent more than steamship tonnage. It is evident that his figures were based upon the total tonnage taking out only the tonnage to San Francisco from Oregon City, amounting to 20,104 tons.

Q. The first factor, then, would be 37,066?

A. The total tonnage to and from the Willamette River points was 37,066.

Q. The second factor is the 20,104?

A. 20,104.

Q. The third factor is the 50 per cent?

A. The third factor is the 50 per cent.

Cross-examination by Mr. SEVERANCE:

Q. I call your attention to Defendants' Exhibit 45, and the attached exhibits, concerning Asiatic business. Have you it before you?

A. I have.

Q. The first page, as you said yesterday, refers only to outward-bound traffic?

A. That is right.

Q. By outward-bound, you mean traffic to the Orient?

A. That is correct.

Q. And it only shows the rail earnings?

A. It shows the earnings of——

Q. I don't mean in the case of the Sunset-Gulf; of course, that would show the rail and steamship earnings to New York.

7664 But it does not show the earnings of the steamships on the Pacific Ocean?

A. It does not.

Q. The second sheet, the one that is headed "Asiatic Traffic Volume U. P. & S. P. Revenue, for the year ending June 30, 1901, movement outward and inward," shows the movement via San Francisco and via Portland? That shows the movement both ways, as I understand it, through both of those ports—the total for the year?

A. That is the movement in both directions; and the detail is attached.

Q. And that is inclusive only of the rail revenue, and not the revenue of the steamships on the Pacific Ocean?

A. That is correct.

Q. And does that Southern Pacific revenue shown via San Francisco include the Southern Pacific revenue shown on westbound Asiatic traffic, Exhibit 45?

A. Exhibit 45 referred only to traffic via the Sunset-Gulf route. The statement of traffic to and from the Orient via San Francisco includes (as shown in the heading of the statement) traffic from and to points in Missouri River and common points territory and points east thereof via the Chicago, Milwaukee & St. Paul Railway and Chicago & Northwestern Railway via Union Pacific, Ogden, Utah, and Southern Pacific Company, Pacific system.

Q. On the first page of Defendants' Exhibit 45 it shows Southern Pacific revenue by the Sunset route, $24,789.92?

A. Yes.

Q. You testified yesterday that that all moved through San Francisco. On Defendants' Exhibit 45 there is shown, for the year ending June 30, 1900, a Southern Pacific revenue of $24,789.92; that is right, isn't it?

A. That is right.

7665 Q. The next page of this exhibit is for the year ending June 30, 1901, which is a different year?

A. Yes.

Q. That is to say, the Southern Pacific Sunset-Gulf revenue shown on Defendants' Exhibit 45 is for the year ending June 30, 1900?

A. That is correct.

Q. The Southern Pacific revenue shown on Defendants' Exhibit 45-C, Supplemental, is $146,872, for the year ending June 30, 1901?

A. Yes.

Q. That does not include any revenue accruing to the Southern Pacific on movement by the Sunset-Gulf route, does it, but it is only revenue accruing by the Ogden route?

A. That is correct, I believe.

Q. Then you have no showing here, as I understand it, of the revenue received via the Southern Pacific Sunset-Gulf route for the corresponding year ending June 30, 1901?

A. I have not.

Q. How did it happen that you made that up for 1900, the Southern Pacific Gulf route, and made the other figures for 1901? Do you happen to know why that was?

A. Well, we made up just what was requested by the attorneys, or by Mr. Stubbs.

Q. You do not know of any reason for failing to give a complete showing of the Southern Pacific revenue on Asiatic traffic for 1901, except that the information was not requested?

A. I know of no reason.

Mr. DUNNE. I will state, Mr. Severance, that the request on the New Orleans auditor seems to have been addressed to the fiscal year ending June 30, 1900; and in the Union Pacific office, I think, in most cases it was the year ending June 30, 1901.

7666 Q. You have no statement showing the revenues to the Union Pacific on Asiatic traffic through Portland, inward bound, for the year ending June 30, 1901, have you, separately stated? That would be a mere matter of subtraction, I suppose.

A. Statements have been introduced for both westbound and eastbound traffic.

Q. I see it is a mere matter of subtraction.

A. ——

Q. Calling your attention to Defendants' Exhibit 46, which is entitled "Traffic between San Francisco and Portland, Volume and U. P. and S. P. Earnings, for year ending June 30, 1901," showing $217,055.55 as the Oregon Railroad & Navigation Company earnings and $110,691.80 as the Southern Pacific earnings,—that includes business purely local to both San Francisco and Portland only, doesn't it?

A. That is local business, San Francisco and Portland.

Q. That does not include any business moving from San Francisco to points in the Willamette valley or beyond Portland?

A. It does not include business to or from points beyond Portland.

Q. Neither that business in the Willamette valley nor business destined beyond Portland, nor, on the other hand, business destined to points in California or other places beyond San Francisco?

A. Such business is not included.

Q. Calling your attention to Defendants' Exhibit 47, which is headed "Willamette Valley Traffic, Year ending June 30, 1901, excluding Traffic to and from local points on Union Pacific system, rail and water lines, west of Ogden," it shows total Union Pacific

7667 earnings of $120,291.39; then there is a deduction on the face of this paper, of $83,481.02, leaving a net which is stated to be

competitive, of $36,810.37. I understood you to testify yesterday, in answer to Mr. Dunne, that you did not desire to be responsible for any suggestion as to whether the business was competitive or not, but only for the figures?

A. That is correct.

Q. And do not intend to testify as to that. Now, in arriving at the so-called competitive business, there was excluded as non-competitive all business to the paper mills at Oregon City, both from San Francisco to that point and to San Francisco from that point, wasn't there?

A. That is correct.

Q. And that amounts to how much—about $63,000?

A. Yes, from San Francisco to the River $6,553.68; to San Francisco from the River (that is, from Oregon City) $56,557.75.

Q. That is the paper mill traffic?

A. That is the traffic between the paper mills and San Francisco.

Q. Now, these other points to the River and from the River—the amounts were changed on the statement; you put in a new one.

A. The first statement contained approximated figures. These are the actual figures.

Q. I understand. Now, what are those points?

A. As stated in Note 3, at the foot of the statement, the non-competitive traffic from other points deducted covers traffic from Northern Pacific and Columbia River points via Portland.

Q. Note 3, "non-competitive traffic to other points deducted covers traffic from Northern Pacific and Columbia River points via Portland"?

A. That is correct.

7668 Q. Do you happen to know why Columbia River points were treated as non-competitive?

A. I do not.

Q. Do you happen to know why traffic to Salt Lake was treated as non-competitive?

A. I do not.

Q. On Defendants' Exhibit 47-A, Supplemental, you have "Via Southern Pacific, estimated average earnings per month, $12,196.50." Is that supposed to include the Southern Pacific revenue on all business in and out of the Willamette valley, no matter where it originates or to what point it is destined?

A. That is Mr. Stubbs' estimate. I understand that it includes only Southern Pacific revenue to and from San Francisco.

Q. Only San Francisco business?

A. Only so far as San Francisco business.

Q. That is not intended, then, to include the Southern Pacific's proportion, for instance, of the hop movement, we will say, to Boston or New York, where it moves by Ogden?

A. No; that is given in other exhibits.

Q. I don't think it is given anywhere, but perhaps it is. Well, we can assume, can we, that these monthly earnings of the Southern

Pacific from the Willamette valley (shown on Defendants' Exhibit 47–A, Supplemental, $12,196.50.) are intended only to cover business to and from San Francisco?

A. That is my understanding.

Q. Turning to Defendants' Exhibit 48, that is headed "Lumber and other traffic from Portland to Ogden and Common Points and Beyond via Southern Pacific Company and D. & R. G. and via Union Pacific system, for the six months July, September, November
7669 1900, January, March and April 1901." The traffic that is covered by this statement is traffic originating in Portland locally, isn't it?

A. That is correct.

Q. It does not cover any traffic originating outside of Portland, in the Willamette valley, or north of Portland, east of Portland, or west of Portland?

A. I think not. It was not intended to cover anything except Portland proper.

Q. And, as stated on its face, traffic from Portland to Ogden via the Southern Pacific is excluded?

A. Yes, on account of the destruction of records.

Q. This does not include any business moving to Portland, but only business originating in Portland and moving east?

A. Only east-bound business.

Q. Calling your attention to Defendants' Exhibit 49, entitled "Traffic to and from Portland and Atlantic seaboard, Pittsburgh and Ohio River points (with Chicago, Mississippi River and Missouri River Common Points territories added) via Sunset Route and via Union Pacific Granger route"—this is in both directions, isn't it?

A. This is in both directions.

Q. But it is only to or from Portland proper?

A. To or from Portland proper.

Q. The Southern Pacific portion of this statement was made up where?

A. By the auditor of the Southern Pacific lines in Louisiana—New Orleans.

Q. Do they audit all the business east of El Paso?

A. They did in 1900. I think the auditor of all of those lines was located at New Orleans at that time. At any rate, the records are
all there. That is to say, the through business was audited at
7670 New Orleans; not the local business of the Texas lines.

Q. And this statement, as I understand, does not purport to show any business to or from Portland and the various eastern territories named, moving by Ogden,—that is, by the Southern Pacific by Ogden?

A. It does not.

Q. But only the Sunset Route?

A. The Sunset Route.

Q. I believe you have already stated that it does not include any business originating outside of Portland proper, or destined to points outside of Portland proper?

A. That is correct.

Q. Defendants' Exhibit 49 (turning again to the details) shows the movement of all business by the Sunset Route from any of the eastern common points territories, that is, Missouri River and common points, Mississippi River and common points, Chicago and common points, Cincinnati and Detroit common points, Pittsburgh-Buffalo common points, and New York-Boston common points.

A. The exhibit includes all traffic between the territories you have named and Portland, which was carried via New Orleans and El Paso; Sunset Route.

Q. Is the heading of the next exhibit—Defendants' Exhibit 50—misleading?

A. It is not intended to be misleading.

7671 Q. I am sure of that. I am sure you would not intend to make a misleading statement. But I want to ask you about it. It is headed "Traffic to and from Portland and Atlantic Seaboard, Pittsburgh and Ohio River territories." That is followed by the statement "The showing below includes all traffic between Portland and points on and east of Missouri River." Now, why is that first statement put in there, if it is intended to include all points?

A. Well, that is Mr. Stubbs' memorandum.

Q. That first part should be disregarded, should it?

A. That should be disregarded.

Q. And it is intended to show all business between Portland and points on and east of the Missouri River. Have you a detail of that, divided by territories as the other is divided?

A. The information contained in that statement was received from the Denver & Rio Grande Railroad Company; and it is my recollection that the general auditor stated he was unable to separate the business by territories.

Q. That business is only from Portland proper, and does not include the movement in or out of the Willamette valley or any of the surrounding country?

A. That is correct.

7672 Q. Calling your attention to Defendants' Exhibit 51, which is headed "Hops and Wool to the East (mainly Atlantic seaboard) from Portland to Missouri River and East." That does not include any hops or wool shipped from points outside of Portland, does it, but only such as are shipped from Portland locally?

A. It includes only the traffic of Portland local.

Q. They do not raise many hops in the streets of Portland, so far as you know, do they?

Mr. DUNNE. I do not think he is an authority on that.

A. I think I remember seeing a few hop vines growing over the fences there.

Q. That is what accounts for this revenue, probably.

Mr. DUNNE. Mr. Loomis suggests that the expression "local" might be a little misleading. It is from Portland to the territory mentioned.

A. Allow me to suggest Portland proper.

Mr. DUNNE. Yes. To the territory mentioned.

WITNESS. Yes.

Mr. SEVERANCE. Yes, certainly; moving from Portland to the territory mentioned.

Q. Calling your attention to Defendants' Exhibit 52, headed "Traffic between San Francisco and Montana and Idaho points (including Eastern Oregon, Washington and British Columbia) served by Northern Pacific and competed for—for the service between San Francisco and Portland—by the Southern Pacific and the O. R. & N. Company, for the year 1900." Does that mean the fiscal year ending June 30, 1900, or the calendar year 1900? It says "Calendar year" on the detail, doesn't it?

7673 A. It is the calendar year.

Q. Yes; on the detail it says "Calendar year 1900."

A. "Via Southern Pacific-Northern Pacific" that is the calendar year 1900; "Via Oregon Railroad and Navigation Company" it is for the fiscal year ending June 30, 1900.

Q. This does not include any business that the Southern Pacific moved by way of Ogden to Montana points?

A. It does not.

Q. And it does not include any business that Southern Pacific moved to Portland by rail and then turned over to the O. R. & N. for distribution at local points on the O. R. & N., does it?

A. It does not.

Q. So far as the Southern Pacific revenues are concerned it includes nothing except business interchanged with the Northern Pacific at Portland?

A. That is correct.

Q. In the O. R. & N. earnings is there included the earnings of the O. R. & N. beyond Portland? Suppose the traffic, for instance, is taken to Montana points by way of Huntington and the Short Line, or taken to Montana points by way of Spokane and the Great Northern. Do these earnings of the O. R. & N. shown on this statement include the earnings beyond Portland or only the earnings of the steamship line between San Francisco and Portland?

A. As shown by the headings of the columns in the statement, the O. R. & N. revenue is only the steamship revenue.

Q. Where does it say that?

A. If you will look at the section relating to the O. R. & N. Company's business, the second column, you will find it is headed "O. R. & N. Steamship Revenue." Each revenue column is headed in the same way.

Q. Oh, I see; I did not observe that. Then, I am right in
7674 my assumption that it does not include the earnings that the O. R. & N. may get beyond Portland?

A. It does not include the earnings of the O. R. & N. rail lines.

Q. Then, this foot note "2" to the detail is disregarded in so far as it refers to this matter, as a definition of the Union Pacific system? That is a regular standard foot note you have for all of them, isn't it?

A. That refers to the next to the last item of the statement—the total tons of freight carried by and gross operation revenue of Union Pacific system for the year ending June 30, 1900.

Q. As I understand, that exhibit, Defendants' Exhibit 53, with the details attached, includes, so far as the Southern Pacific is concerned, the ships revenue to the Gulf port from New York or from the Gulf port to New York, and the rail revenue of the Southern Pacific lines from the Gulf port to Fort Worth?

A. That is correct.

Q. The Union Pacific revenue includes all revenue, either from the Missouri River or from Denver in the case of Utah business, if they had some, or business destined to these two localities—Colorado and Utah common points?

A. It does.

Q. The Union Pacific revenue shown here is for October, 1906, and April, 1907?

A. That is correct.

Q. And not for the corresponding period in 1900 to which the Southern Pacific's statement relates?

A. That is correct. Owing to the loss of records the information for the Union Pacific could not be given for the year ending June 30, 1900.

Q. So you have just copied here the figures that appear on the statements that you made up at my request and which were introduced?

A. That is correct.

7675 Q. So far as the Union Pacific is concerned.

Mr. DUNNE. Have you a revised statement of the X.Y.Z-54?

WITNESS. I have the revised statement. I also have the original statement showing the revisions in pencil.

Mr. SEVERANCE. I do not care anything about that, only I thought that this statement would not jibe with the figures as they now appear.

Mr. DUNNE. If you have a revised statement of Defendants' Exhibit 54, Mr. Stebbins, I will offer it as Defendants' Exhibit 54-A, supplemental.

Defendants' Exhibit 54–A, supplemental, is as follows:

7676 DEFENDANTS' EXHIBIT 54–A, SUPPLEMENTAL.

(Stebbins.)

"X"

SOUTHERN PACIFIC COMPANY.

Total Operating Revenue.

Fiscal Year Ending June 30, 1900	$63,920,414.22
Average per Month	5,326,701.19
Fiscal Year Ending June 30, 1901	$77,244,898.18
Average per Month	6,437,074.85

	Southern Pacific. Monthly average. Tons (1).	Dollars (2).	Southern Pacific. (3) Total revenue average per month.	Relation of earnings (2) to total revenue (3), percentage (4).
A	91	$2,066	$6,437,074.85 (1901)	0.032
B	2,156	9,224	" "	0.143
D	2,120	12,196	" "	0.189
E	238	1,680	" "	0.026
F	261	4,680	$5,326,701.19 (1900)	0.088
G	225	2,204	" "	0.041
H	Included in "F."		" "	
I	200	1,070	" "	0.020
J	Unimportant.		" "	
K (Utah	151	2,071	" "	0.039
K (Colo.	1,801	16,848	" "	0.316
				0.894

7677

"Y"

UNION PACIFIC COMPANY.

Total operating revenue.

Fiscal year ending June 30, 1900 ..... $39,147,697.33
Average per month 3,262,308.11
Fiscal year ending June 30, 1901 ..... $43,538,181.01
Average per month 3,628,181.75
October, 1906 and April, 1907 ..... $13,388,623.57
Average per month 6,694,311.79

	Union Pacific. Monthly average. Tons (1).	Dollars (2).	Union Pacific. (3) Total revenue, all sources, average per month.	Relation earnings (2) to total revenue (3), per centage (4).
A	22	$87	$3,628,181.75 (1901)	0.002
B	6,392	18,088	"	0.499
D	573	3,593	"	0.099
E	2,295	18,389	"	0.507
F	2,717	49,324	3,262,308.11 (1900)	1.511
G			Included in "F"	
H			"	
I	1,421	3,270	3,262,308.11 (1900)	0.100
			Unimportant	
J Utah	4,738	47,620	6,694,311.79 (1907)	0.712
K Colo.	1,226	16,399	"	0.245
				3.675

7678

"Z"

UNION PACIFIC AND SOUTHERN PACIFIC.

Total operating revenue.

Fiscal year ending June 30, 1900 ..... $103,068,111.55
Average per month 8,589,009.30
Fiscal year ending June 30, 1901 ..... $120,783,079.19
Average per month 10,065,256.60

COMBINED.

	Sou. Pac. and Un. Pac. Monthly average. Tons (1).	Dollars (2).	Sou. Pac. and Un. Pac. (3) Total revenue average per month.	Relation earnings (2) to total revenue (3), percentage (4).
A	113	$2,153	$10,065,256.60 (1901)	0.021
B	8,548	27,312	"	0.271
D	2,693	15,789	"	0.157
E	2,533	20,069	"	0.199
F	2,978	54,004	8,589,009.30 (1900)	0.628
G	225	2,204	"	0.026
H			Included in "F."	
I	1,621	4,340	8,589,009.30 (1900)	0.051
			Unimportant.	
J Utah	4,889	49,691	8,589,009.30 (1900)	0.577
K Colo.	3,027	33,247	"	0.387
				2.317

7679 Q. Have you prepared any figures based upon recent operations of the Union Pacific and Southern Pacific lines, steamship and rail, in the various territories covered by these statements that have been introduced and which are summarized on Defendants' Exhibit 54, with the exception of the figures that you prepared at my request where you had to use the later years because of the destruction of the old records?

A. I have prepared some figures, but I could not tell you now what they are.

Q. Have you figures showing, for instance, the business now between San Francisco and Portland, steamship and rail, or of recent years?

A. I think I have some figures of that kind.

Q. Will you be good enough to bring them in here after luncheon?

A. Yes.

Q. Have you figures showing the business in recent years to Montana points through Portland?

A. Yes; I have some figures showing that.

Q. And also business moving from Willamette River points to the seaboard, both Sunset and by Portland and the O. R. & N. and Short Line, since the Roseville gateway was closed?

A. I am not certain as to that.

Q. I know you will be quite frank with me about it, and I will ask you if you will be good enough to bring down here any statements that you have that correspond to these various figures concerning which you have been interrogated, applying to the last few years, the later years?

A. I will do so.

(A recess was here taken until 2 o'clock p. m.)

7680 C. S. STEBBINS

recalled, testified.

By Mr. SEVERANCE.

Q. Mr. Stebbins, in these statements that you made up showing movement in and out of Portland, which you call Portland proper, do you include Albina?

A. I think not. I am not certain. I think they include just what they state.

Q. Albina is almost Portland.

Mr. BLAISDELL (O. R. & N. Auditor). It does include Albina.

Mr. SEVERANCE. You are sure of that, are you?

Mr. BLAISDELL. Yes.

Mr. SEVERANCE. I understand that Albina is practically a station in Portland.

WITNESS. Yes.

Mr. BLAISDELL. It is within the city limits.

Mr. DUNNE. Mr. Severance asked you this morning, Mr. Stebbins, if you could furnish any other statements.

WITNESS. Yes, sir. This is a statement of Oriental traffic via Portland, eastbound and westbound, for the year ending June 30, 1900.

The paper produced by the witness was marked Defendants' Exhibit 45–G, Supplemental, was offered in evidence, and is as follows:

7681 DEFENDANTS' EXHIBIT 45–G, SUPPLEMENTAL.

(Stebbins)

Statement of Tons Carried and Freight Revenue of the Union Pacific System on Westbound Freight Traffic between the Orient and various Eastern Territories via Portland, Oregon, for the fiscal year ending June 30, 1900.

From—	Via.	Tons Carried.	U. P. Sys. Frt. Rev.
Missouri River and Common Points Territory.	Granger		
	Salt Lake City		
	Spokane		
	Wallula		
	Total		
Mississippi River and Common Points Territory.	Granger	191.52	1,794.85
	Salt Lake City		
	Spokane		
	Wallula		
	Total	191.52	1,794.85
Chicago and Common Points Territory.	Granger		
	Salt Lake City		
	Spokane		
	Wallula		
	Total		
Cincinnati, Detroit and Common Points Territory.	Granger		
	Salt Lake City		
	Spokane		
	Wallula		
	Total		
Pittsburgh, Buffalo and Common Points.	Granger		
	Salt Lake City		
	Spokane		
	Wallula		
	Total		
Boston, New York and Common Points Territory.	Granger		
	Salt Lake City		
	Spokane		
	Wallula		
	Total		
Total	Granger	191.52	1,794.85
	Salt Lake City		
	Spokane		
	Wallula		
Grand total		191.52	1,794.85

Statement of Tons Carried and Freight Revenue of the Union Pacific System on Westbound Freight Traffic, etc.—Continued.

	Total Tons Carried.	Gross Operating Revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System for year ending June 30, 1900	7,380,796	39,147,697.33
Ratio of Westbound Oriental Freight Traffic via Portland to total tons of freight carried by and gross operating revenue of Union Pacific System	0.003%	0.005%

NOTE.—Union Pacific System includes Union Pacific R. R. Co., Oregon Short Line R. R. Co., and rail and water lines of The Oregon Railroad & Navigation Co. Owing to the destruction of certain records by fire, the total tons carried have been partially approximated. The gross operating revenue is correct.

Compiled by:

(Sgd) C. S. STEBBINS,
Assistant to General Auditor Union Pacific System and Southern Pacific Company.

7682 *Statement of Tons Carried and Freight Revenue of the Union Pacific System on Eastbound Freight Traffic between the Orient and various Eastern Territories via Portland, Oregon, for the fiscal year ending June 30, 1900.*

To—	Via	Tons carried.	U. P. Sys. Frt. Rev.
Missouri River and Common Points Territory.	Granger	55.05	574.14
	Salt Lake City		
	Spokane	168.22	406.44
	Wallula	68.00	136.08
	Total	291.27	1,116.66
Mississippi River and Common Points Territory.	Granger	147.51	1,114.02
	Salt Lake City		
	Spokane	113.63	220.18
	Wallula	148.24	224.27
	Total	409.38	1,558.47
Chicago and Common Points Territory.	Granger	283.79	1,878.73
	Salt Lake City		
	Spokane	438.42	1,068.21
	Wallula	266.96	455.62
	Total	989.17	3,402.56
Cincinnati, Detroit and Common Points Territory.	Granger	24.61	226.62
	Salt Lake City		
	Spokane	60.20	124.42
	Wallula	67.97	130.90
	Total	152.78	481.94
Pittsburgh, Buffalo and Common Points Territory.	Granger	72.14	616.89
	Salt Lake		
	Spokane	111.17	227.26
	Wallula	30.57	52.05
	Total	213.88	896.20

Statement of Tons Carried and Freight Revenue of the Union Pacific System on Eastbound Freight Traffic, etc.—Continued.

To—	Via	Tons carried.	U. P. Sys. Frt. Rev.
Boston, New York and Common Points Territory.	Granger	1,079.96	8,297.19
	Salt Lake City		
	Spokane	1,821.26	4,740.83
	Wallula	1,041.50	2,012.85
	Total	3,942.72	15,050.87
Total	Granger	1,663.06	12,707.59
	Salt Lake City		
	Spokane	2,712.90	6,787.34
	Wallula	1,623.24	3,011.77
Grand Total		5,999.20	22,506.70

	Total tons carried.	Gross operating revenue.
Total tons of freight carried by and gross operating revenue of Union Pacific System for year ending June 30, 1900	7,380,796	39,147,697.33
Ratio of Eastbound Oriental Freight Traffic via Portland to total tons of freight carried by and gross operating revenue of Union Pacific System	0.08%	0.06%

NOTE.—Union Pacific System includes Union Pacific R. R. Co., Oregon Short Line R. R. Co., and rail and water lines of The Oregon Railroad & Navigation Co. Owing to the destruction of certain records by fire, the total tons carried have been partially approximated. The gross operating revenue is correct.

Compiled by:

C. S. STEBBINS,
Assistant to General Auditor,
Union Pacific System and Southern Pacific Company.

7683 Q. I show you Complainant's Exhibit 211. What is Complainants' Exhibit 211?

A. It is a carbon copy of a letter written by Erastus Young, general auditor of the Union Pacific and Southern Pacific, to Mr. E. R. Murphy, general auditor of the Denver & Rio Grande Railroad Company, September 1, 1909, requesting statistics named in the letter.

Q. Did you write that letter, signing Mr. Young's name to it?

A. I dictated the letter, but the letter was signed by Mr. Young personally.

Q. That is the letter that was sent?

A. That is the letter, yes sir.

Q. And it was in response to that letter, Complainant's Exhibit 211, that the statistics which you have stated were furnished by the Denver & Rio Grande, were given to you?

A. Yes; except there were statistics for one statement which were covered by a letter from Mr. Hughes, the traffic manager of the Denver & Rio Grande, to Mr. Stubbs.

Q. The statistics so far as they cover the matters referred to in this letter, were furnished in response to that letter?

A. Yes.

Mr. SEVERANCE. I offer in evidence Complainant's Exhibit 211, in connection with the cross-examination of Mr. Stebbins.

Complainant's Exhibit 211 is as follows:

COMPLAINANTS' EXHIBIT 211.

(Stebbins)

U. S. vs. U. P. R. R. Co. et al.—statistics desired. Sep. 1, '09.

Mr. E. R. MURPHY,

General Auditor, D. & R. G. R. R., Denver, Colorado.

7684 DEAR SIR: For use in certain suits, our attorneys desire statistics of certain freight traffic carried by the Southern Pacific Company from or to Ogden, in connection with your line.

Owing to the destruction of records by the San Francisco fire, we are unable to secure the information desired from our own records now existing, and I would esteem it a great favor if your company would furnish information of traffic received from or delivered to the S. P. Co.—traffic in one direction only—as follows:

1. Freight traffic originating at Portland, destined to Utah Common Points (except Ogden), Colorado Common Points, and points east, for six selected months, as follows: July, September, and November, 1900: January, March, and April, 1901. Lumber to be shown separately from other traffic. Statement to show tonnage and (if your records show it) S. P. Co. revenue.

2. Freight traffic from Missouri River and points east to Portland (proper) via your line to Ogden and S. P. Co. Ogden to Portland. Statement to show tons carried and S. P. Co. revenue for the fiscal year ending June 30, 1900, for each of the following territories:

New York, Boston and common points.
Pitsburgh, Buffalo and common points.
Cincinnati, Detroit and common points.
Chicago and common points.
Mississippi River and common points.
Missouri River and common points.

3. Hops and wool originating at Portland, destined to Missouri River and east, for the fiscal year ending June 30, 1900. Tons carried and S. P. Co. revenue, to be shown separately for each of the territories specified in Section 2.

7685 My understanding is that all this traffic was covered by through billing; but possibly it may be necessary to obtain some information from the records of your Ogden office of traffic

received or delivered on transfer billing, if such records have been preserved.

The necessities of the case make it important that we should receive this information at the earliest date at which it can be conveniently furnished. We shall be glad to bear any expense that may be incurred in securing the information. Will you kindly inform me as soon as possible whether the information desired is available from your records, and whether you will have it furnished.

Yours truly,

ERASTUS YOUNG,
General Auditor.

CSS S

7686 B. G. BARTHOLOMEW

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct-examination by Mr. DUNNE.

Q. Mr. Bartholomew, you are the auditor of the Southern Pacific Company Atlantic Steamship Lines, I believe?

A. Yes, sir.

Q. Mr. Severance asked for information as to some years between 1901 and 1906, and you carried it down to 1909, I believe, for Colorado and Utah business?

A. Yes, sir.

Q. You prepared those tables?

A. Yes, sir.

Q. I notice that you prepared them in two sheets. Do I understand that one of these sheets refers to Utah and one to Colorado?

A. That is correct.

Q. These are carbon copies, are they?

A. Yes, sir.

Q. What did you compile these figures from?

A. They were compiled from the records of the company.

Mr. DUNNE. I will offer the Utah sheet as Defendants' Exhibit 229, and the Colorado sheet as Defendants' Exhibit 230.

Defendants' Exhibits 229 and 230 are as follows:

7687 DEFENDANTS' EXHIBIT 229.

(Bartholomew)

SOUTHERN PACIFIC COMPANY—ATLANTIC STEAMSHIP LINES

Statement of tonnage and revenue accruing to system lines on business from and to Utah points, for years as shown below.

	Tons.	Revenue.		
		Ship.	Rail.	Total.
Northbound.				
1901	28	$74.70	$36.98	$111.68
1902	1	4.83	8.86	13.69
1903	150	716.92	1,740.36	2,457.28
1904	36	278.75	184.84	463.59
1905	25	194.00	107.44	301.44
1906	19	57.17	39.33	96.50
1907	54	487.23		487.23
1908		2.12	1.86	3.98
1909	7	116.61	39.74	156.35
Southbound.				
1901	1,958	19,997.03	15,042.67	35,039.70
1902	3,003	26,684.48	20,816.33	47,500.81
1903	4,308	55,072.69	27,836.77	82,909.46
1904	4,930	41,909.80	22,407.24	64,317.04
1905	8,717	75,963.09	39,158.43	115,121.52
1906	8,371	70,277.51	36,797.37	107,074.88
1907	7,655	63,215.95	24,598.97	87,814.92
1908	4,229	36,085.85	13,489.04	49,574.89
1909	3,892	28,054.56	7,181.98	35,236.54
Total.				
1901	1,986	20,071.73	15,079.65	35,151.38
1902	3,004	26,689.31	20,825.19	47,514.50
1903	4,458	55,789.61	29,577.13	85,366.74
1904	4,966	42,188.55	22,592.08	64,780.63
1905	8,742	76,157.09	39,265.87	115,422.96
1906	8,390	70,334.68	36,836.70	107,171.38
1907	7,709	63,703.18	24,598.97	88,302.15
1908	4,229	36,087.97	13,490.90	49,578.87
1909	3,809	28,171.17	7,221.72	35,392.89

ACCOUNTING DEPARTMENT,
New York, N. Y., March 1, 1910.

B. G. BARTHOLOMEW,
Auditor.

7688 DEFENDANTS' EXHIBIT 230.

(Bartholomew)

SOUTHERN PACIFIC COMPANY—ATLANTIC STEAMSHIP LINES

Statement of tonnage and revenue accruing to system lines on business from and to Colorado points, for years as shown below.

	Tons.	Revenue.		
		Ship.	Rail.	Total.
Northbound.				
1901	20,054	$50,636.44	$38,360.94	$88,997.38
1902	1,223	5,825.57	4,413.31	10,238.88
1903	840	5,611.65	2,853.38	8,465.03
1904	777	5,697.59	3,513.82	9,211.41
1905	1,618	12,083.31	6,943.68	19,026.99
1906	1,304	11,271.99	5,903.02	17,175.01
1907	1,943	16,986.49	5,156.55	22,143.04
1908	1,029	9,567.07	2,690.63	12,257.70
1909	1,501	12,752.39	1,597.87	14,350.26
Southbound.				
1901	11,875	89,457.59	67,771.91	157,229.50
1902	11,891	85,367.59	64,672.46	150,040.05
1903	10,621	66,403.41	27,360.95	93,764.36
1904	12,337	94,297.97	52,801.76	147,099.73
1905	15,370	118,043.73	71,129.36	189,173.09
1906	14,506	108,543.10	65,768.02	174,311.12
1907	9,614	73,109.45	32,275.59	105,385.04
1908	9,609	72,752.80	23,737.58	96,490.38
1909	8,609	66,529.54	19,836.36	86,365.90

TOTAL.

Year.	Tons.	Ship.	Rail.	Total.
1901	31,929	$140,094.03	$106,132.85	$246,225.88
1902	13,114	91,193.16	69,085.77	160,278.93
1903	11,461	72,015.06	30,214.33	102,229.39
1904	13,114	99,995.56	56,315.58	156,311.14
1905	16,988	130,127.04	78,073.04	208,200.08
1906	15,810	119,815.09	71,671.04	191,486.13
1907	11,557	90,095.94	37,432.14	127,528.08
1908	10,638	82,319.87	26,428.21	108,748.08
1909	10,110	79,281.93	21,434.23	100,716.16

ACCOUNTING DEPARTMENT,
Pier 25, N. R., N. Y., March 1, 1910.

B. C. BARTHOLOMEW,
Auditor.

7689 Q. There were two statements put in evidence when Mr. Spence was on the stand, touching the Sunset route business. Do you know the statements to which I refer?

A. Yes, sir; 1898 and 1900.

Q. They were compiled from what records?

A. They were compiled from the records of the company.

Q. When Mr. Spence was on the stand he was asked by Mr. Severance in respect to the Portland business and the relation of the Columbia River business to the showing made by Portland in those statements. What does the Portland business include?

A. The Portland business included everything in to and out of Portland.

Q. But with reference to the Columbia River business?

A. It included the Columbia River business.

Q. It did not include business south of Portland?

A. No, sir.

Q. The Willamette Valley?

A. No, sir.

Cross-examination by Mr. SEVERANCE.

Q. I notice where you are describing this business you divide it between northbound and southbound. Northbound is the business moving from Colorado and Utah to New York?

A. Yes, sir.

Q. If it went all-rail it would be termed eastbound?

A. Yes, sir.

Q. And the southbound is that which moved from New York to Colorado and Utah?

A. Yes, sir.

Q. You use those expressions on account of the movement of the steamships, don't you?

A. Yes.

7690 Q. I notice that the years 1905 and 1906 seem to be much the largest years to Utah and, with one exception, the largest years to Colorado. Do you know why that happened to be so?

A. No, sir; I do not.

Q. These statements are made up from sources that you are satisfied are correct?

A. Yes, sir.

Q. So that you are satisfied the figures are correct?

A. Yes, sir.

7691 FRANK H. PLAISTED,

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination, by Mr. LOOMIS.

Q. Please state your residence and occupation.

A. Salt Lake City, Utah; assistant general freight agent of the Oregon Short Line.

Q. How long have you been in the railroad business?

A. About 25 years—since 1884.

Q. How much of that time has been in the traffic department?

A. The whole time in the general freight office or travelling, soliciting freight for that department.

Q. How long have you been connected with the Oregon Short Line and Union Pacific roads?

A. Since March, 1889.

Q. In connection with the traffic departments all of that time?

A. Yes, sir. Three years in the office, travelling for 13 years, and another period of 4 years in the office.

Q. Have you had any experience in connection with the wool traffic originating in Utah, Nevada and Idaho?

A. Yes, sir. I solicited the wool traffic in those states for a number of years. During 1893, 1894 and 1895 I had charge of the railroad shearing corrals in southern Utah, at Milford and Black Rock and Churchhouse switch, also solicited wool business generally in that territory. Those corrals were established for the purpose of securing transient sheep which drifted across the line of the Union Pacific and later went into the D. & R. G. territory or territory
7692 between the D. & R. G. and the Union Pacific. My time was occupied during the latter part of March and the month of April and part of May in inducing the sheep men to shear at these corrals. That took me, of course, a great deal into the country, on to the desert, to see the sheep men. Later in the season I solicited wool in the ordinary way at various points along the line.

Q. Did you become familiar during that period with the sheep business and the wool traffic?

A. I did.

Q. State any subsequent experience you may have had in the wool traffic or the sheep business.

A. I went to California in 1896, but returned to Salt Lake territory in March, 1897, and solicited wool business in northern Utah, Nevada, Idaho, and Oregon.

Q. During what years?

A. For the years 1897, 1898, 1899, on up to 1905.

Q. What have you been doing since 1905?

A. Since 1905 I have been in the general freight office, but I have been familiar with the wool business since, as an official of the company.

Q. General freight office where?

A. At Salt Lake City.

Q. As assistant general freight agent?

A. As assistant general freight agent.

Q. I wish you would state a little more in detail the manner of soliciting the wool business?

A. The wool business is solicited ordinarily very much as any other freight business is solicited; but in southern Utah the Union Pacific Railroad, some years ago, at the time it controlled that line

adopted the policy of erecting sheep shearing corrals to in-
7693 tercept transient sheep which later drifted into the territory of the D. & R. G. These corrals were at Milford, Black Rock and Churchhouse Switch, and it was necessary in soliciting that business to go on the desert, out into the country, and interview the sheep men, urging to them the advantage of early shearing. That took up part of the month of March, all of April, and along until about the 10th of May. Later in the year we solicited wool all along the line, wherever it was loaded.

Q. I wish you would describe in a general way the winter and summer sheep ranges of Utah, Nevada and Idaho, as well as the migration of sheep between their summer and winter feeding grounds.

A. All the higher mountain country in those states, wherever there is a sufficiency of water and feed, is utilized by the sheep men as a summer range. During the winter these sheep are taken to the lower altitudes, to what we call desert country out there, and kept there until the following spring, when they are returned to the higher mountains or summer range. The movement of these sheep from summer to winter range is in several directions, not necessarily from north to south or east to west, or vice versa, but rather from the higher to the lower altitude. When the winter comes and the snow falls in these higher altitudes, it becomes impossible for them to stay there, and they drift to the lower country, where they stay for the winter. There are summer ranges for instance in the State of Utah, and there are sheep which summer range there and winter range in other parts of the State of Utah. The same is true of Nevada, and the same is true of Idaho, and it is also true that some sheep run occasionally from one state to another. Some of
7694 these drives are short, running only 45 to 75 miles, and others run from 150 to 250 miles, according to circumstances.

Q. Have you prepared a map showing in general the movement of sheep in that territory from the winter to the summer ranges?

A. I have taken a railroad map and indicated thereon in a general way some of the leading currents of the movement of sheep from summer to winter range.

Q. Describe those currents in a general way and explain the hieroglyphics you have placed upon the map.

A. I have indicated by arrows the movement from the summer range to the winter range.

Mr. SEVERANCE. As I understand, the arrow points toward the range?

WITNESS. The arrow points toward the winter range; the return movement to the summer range would, of course, be in the reverse direction.

Mr. SEVERANCE. Would it be about on the same lines?

WITNESS. Not necessarily, but generally in the same direction. They do not follow any exact beaten trail. You will notice in Central and Southern Utah a movement from points east of the Denver & Rio Grande lines and from points between the Denver & Rio Grande

lines and the present San Pedro tracks out on to the desert country west of the San Pedro; also from points on the D. & R. G. to another country we call the East Desert in that territory, over towards
7695 Green River you will notice. Also in Nevada you will see a movement from the Ruby Mountains, south of Halleck and Death to desert country farther south. Also from points just north of the Southern Pacific, say at Grouse Creek and through territory west of that to points south of the Southern Pacific. In Idaho there is also a movement from points north of the Oregon Short Line to desert range south of that line in Idaho. And there is a movement from the extreme eastern part of Idaho and western Wyoming across the southeastern portion of Idaho into northwestern Utah and northeastern Nevada.

The map produced by the witness was marked Defendants' Exhibit 231.

Mr. Loomis. I offer Defendants' Exhibit 231 in evidence, subject to the stipulation heretofore entered into concerning certain photographs and charts.

Witness. There are many other local movements of sheep. Those tracings do not purport to represent all the movement of sheep that occur in that territory.

Q. Those are the principal ones.

A. They move locally in a great many parts of the territory between the higher ranges and the lower adjacent country.

Q. But this map represents the principal migrations?

A. Those are typical of some of the main currents of that movement.

7696 Q. I would like to know what the sheep obtain in the way of water, in the winter time, upon those deserts?

A. They eat snow.

Q. Quench their thirst in that manner?

A. And that is the reason that those deserts are available for this purpose in the winter and at no other time. After the sheep leave there in the spring, at the time the spring rains fall there is a growth of vegetation which cures during the summer and remains undisturbed until the return of the herds in the fall. They then live on this vegetation until the following spring, and must leave there when the snow melts off, because there is no water.

Q. What are the factors that determine the railroad, upon which wool will be transported from the territory already described—Utah, Nevada and Idaho?

A. The line which has tracks nearest to the point where sheep are shorn will secure the wool.

Q. To what extent are sheep sheared along the line of the Southern Pacific in northwestern Utah and northeastern Nevada?

A. There are about 2,000,000 pounds shorn at points tributary to the Southern Pacific, Elko and east. This wool comes from sheep that range in Nevada both summer and winter, and a few of them in extreme southern Idaho.

Q. For how long a time has that been true?

A. It has been true for many years. We had some figures made for 1909, that showed about that number.

Q. How would it be as to the years 1900 and 1901?

A. I should say it would not be much different. The situation is the same now as it was then.

Q. What does that represent in the way of carloads?

A. Depending on the loading, from 75 to 85 or 90 cars.

7697 Q. State whether or not the Oregon Short Line ever solicited this business—wool sheared from sheep along the line of the Southern Pacific?

A. It never did.

Q. Has it never undertaken in any way to get this business?

A. No, sir.

Q. Why not?

A. There was no way in which it could obtain it.

Q. State whether or not there were any inducements which they could have offered to induce the sheep owners to drive the sheep to points on the Oregon Short Line to be sheared.

A. No. The sheep from which this wool that I have mentioned as tributary to the Southern Pacific comes, never go near Oregon Short Line territory, nor could they be induced to go near Oregon Short Line territory, with the exception of a very few which summer in the mountains in the neighborhood of Brigham. That wool would not amount to over 2 or 3 cars.

Q. Where is Brigham?

A. On the Oregon Short Line, 20 miles north of Ogden.

Q. In giving the amount of wool sheared along the line of the Southern Pacific, have you included the wool from sheep summered in Idaho along or north of the Oregon Short Line, and wintered in Utah and Nevada at points south of the Southern Pacific tracks?

A. I have not.

Q. Why not?

A. The sheep which summer on or north of the Oregon Short Line and winter in the country south of the Southern Pacific, when crossing the Southern Pacific rails on their way to the summer range in the spring, have a drive before them of from 150 to 250 miles.

7698 This brings the time of crossing the Southern Pacific tracks entirely too early for them to shear with safety; the weather is too cold at that time and the drive is too long. Heavy losses would be certain to result if it was attempted. Furthermore, the wool brings 2 or 3 cents per pound more on the Oregon Short Line.

Q. Would it be possible for the Southern Pacific to offer inducements to persuade the owners of the sheep that you have described, to shear them along their line?

A. No inducements could be offered, because it is too dangerous. They would be certain to lose a large proportion of their sheep if they took the wool off from them that early in the year.

Q. I wish you would state the amount of sheep-shearing which annually takes place along the line of the Oregon Short Line in southern Idaho.

A. Between 22 million and 23 million pounds of wool are shorn along the Oregon Short Line in southern Idaho.

Q. How long has that been true?

A. It has varied somewhat from year to year. It is heavier now than it was years ago. It has averaged about what it is for the past five or six years I should say.

Q. Was it ever possible for the Southern Pacific to secure any of the wool traffic from sheep sheared along the railroad of the Oregon Short Line?

A. It was not.

Q. Why not?

A. I have already explained that the sheep sheared along the Oregon Short Line, at the time they crossed the Southern Pacific tracks (supposing that they have wintered south of the Southern Pacific) cross the Southern Pacific tracks too early; it would be too
7699 cold and too dangerous for a man to take the wool off his sheep at that time of the year. Now, if you have in mind any teaming of wool from the Oregon Short Line after it has been shorn at some point near there, the distance is entirely too great, and the expense of teaming would be too great. The Southern Pacific could not secure that business.

Q. Was it ever possible for the Oregon Short Line to secure any of the wool traffic from sheep sheared along the railroad of the Southern Pacific in northwestern Utah and northeastern Nevada?

A. No.

Q. Why not?

A. Those sheep never go to the vicinity of the Oregon Short Line.

Q. How about having it teamed over?

A. The distance is too long and the expense would be too great.

Q. Are there any sheep between the Oregon Short Line and the Southern Pacific, which might gravitate to the one or the other according as inducements might be offered?

A. There is some shearing done in there, but at points that are much nearer to one track or the other, according to the location of the range. There are about 125,000 pounds or something like that amount, shorn in the Oakley and Albion country, that it has been claimed was competitive—but it is not.

Q. Why not?

A. It is too close to the Oregon Short Line.

Q. You refer to the Oakley and Albion country. I wish you would tell us more definitely where that country is.

A. It is in what we call the Goose Creek country; it is south of Burley, on the present Twin Falls branch, or south of Minne-
7700 doka or Kimama on the old main line. Five or six cars of that wool used to come in to those points. I suppose it comes in now to points on the Twin Falls branch, as that would be shorter.

The haul from the same territory over to the Southern Pacific would be considerably longer; I don't know exactly how much—I have never been in that country.

Q. What would the wool shorn in that locality, that you have just described, represent in the way of carloads?

A. About 5 or 6 cars.

Q. State whether or not it was a sufficient volume to justify solicitation.

A. It was not. Nobody ever solicited it, except that it has been solicited for routing east after it reached the railroad.

Q. To what extent are sheep sheared along the line of the San Pedro and Rio Grande railroads south of Salt Lake City?

A. There are a large number of sheep shorn in southeastern and southwestern Utah along those lines.

Q. Can you give the volume of the wool traffic from that territory?

A. I should estimate it at about 9,000,000 pounds.

Q. How long has that been true?

A. For a number of years. The wool business from Utah today is rather lighter than formerly.

Q. How does it compare now with 1900 and 1901?

A. I don't think there is as much wool in Utah as there was then.

Q. How much in this particular part of Utah now as compared with then?

A. Probably less, although it would be a guess on my part.

Q. What are the factors which determine the routing of the
7701 wool originating in that territory?

A. The same there as elsewhere. The point where it was shorn. It would be loaded on the line of road nearest which it was shorn.

Q. Do any sheep migrate in an easterly and westerly direction to the lines of the San Pedro and Rio Grande railroads in central or southern Utah?

A. Yes, there is a large migration of sheep from central Utah to southeastern and southwestern Utah. This southwestern movement on to what we call the west desert or Escalante desert, takes them across the San Pedro tracks. From the point they cross those tracks on their return to the summer range, their drive is about 25 to 75 miles to the lambing grounds, and a great many of these sheep are shorn at the railroad corrals along the San Pedro, during April and early May. The San Pedro secure probably 2 million pounds of wool there that otherwise they might not get, by maintaining these corrals.

Q. What lines compete for this wool traffic originating in territory south of Salt Lake City?

A. The San Pedro and the D. & R. G.

Q. Are they the only ones?

A. They are the only ones, yes, they and their connections. The wool has to be loaded on one of those lines.

Q. State whether or not it is or ever was possible for the Southern Pacific Company to secure any of the wool traffic from this territory.

A. It was not.

Q. Why not?

A. The Southern Pacific does not reach that territory.

Q. Could the Southern Pacific have offered inducements to
7702 the owners of the sheep to drive them from that territory to points along the line of the Southern Pacific?

A. No, that would not be possible. It is at least 200 miles from the nearest point on the Southern Pacific to this southern Utah winter range; and the sheep that winter-range there summer-range in eastern or southern Utah, in an entirely different direction. No inducement that the Southern Pacific could offer would justify them in going so far out of their way. To understand that situation, it must be remembered that all the available range suitable for summer or winter, in that country, is occupied. The herds move from summer to winter range and back, year by year, but they return continually to the same locations. A man who summer-ranged his sheep in eastern or southern Utah would not take them 200 miles north to the Southern Pacific and back; that would be entirely out of his track. In order for a railroad to secure wool in the manner I have described, the sheep must be shorn in transit on a track that they cross in their regular line of travel back to the summer range. The Southern Pacific, therefore, could not secure that business, because they are out of the track of travel.

Q. What, if any, efforts has the Southern Pacific Company ever made to secure the routing of wool from territory south of Salt Lake?

A. None whatever.

Q. What, if any, inducements have the San Pedro and Rio Grande roads offered, in their efforts to secure the wool traffic from this territory?

A. The San Pedro still maintains the corrals at Black Rock and Milford which was erected by the Union Pacific, and they
7703 have also built new corrals at Lund and Modena; and, I understand, another one on their Fairfield branch, west of Lehigh Junction, between Lehigh Junction and Tintic.

Q. What were these corrals for and what conveniences did they offer to the owners of the sheep?

A. They are built by the railroads in a suitable manner for shearing sheep, and furnished free to the sheepmen, to induce the shearing of these transient herds.

Q. Has the Southern Pacific Company ever offered similar inducements to secure the shearing of sheep along its line west of Salt Lake City?

A. No, sir.

Q. Do you know why not?

A. The only sheep that would be shorn in corrals on the Southern Pacific, if they were provided, would be sheep which would be shorn in that vicinity anyway. They could not secure any transient sheep there that drift later into any other territory, and for that reason they have never furnished any of those facilities.

Q. Did you hear the testimony of Mr. Love, at Salt Lake, in this case, in regard to a reduction in rates on salt having been made by the Oregon Short Line to induce the routing of wool over that railroad as against the Southern Pacific?

A. Yes, sir. I believe he mentioned a rate which he said Mr. Eccles told him was made to Minnedoka for the purpose of having sheep driven to that station.

Q. What are the actual facts in regard to this matter?

A. That rate was made—I do not recall the exact figure—but there was a reduction made on stock salt in the year 1893, at
7704 the time that the sheep industry was in very bad condition on account of the Wilson bill. Wool had been placed or was about to be placed on the free list, and there was a tremendous drop in prices. This rate on stock salt was one feature of a number in a policy of encouragement to sustain the wool industry. Mr. Eccles reduced the rate on wool at that time, from Idaho; made some rates on wool bags and other things. The rate on salt was made not only to Minnedoka but to most all other stations in Idaho, and had nothing to do with the driving of sheep from any territory.

Q. Did you hear Mr. McCarthy's testimony at Salt Lake, in this case, in regard to the wool traffic from territory adjacent to Salt Lake?

A. Yes, sir.

Q. Were you acquainted with Mr. McCarthy when he was connected with the Union Pacific at Salt Lake City?

A. Yes, sir. I was traveling freight agent out of the same office.

Q. Did the course of his duties bring him into close association with the wool traffic?

A. No, sir. He was contracting freight agent on the street.

Q. And solicited what class of business?

A. He attended to the city business there, soliciting merchandise. He did not go into the country, and would not know anything about these matters.

Q. What suggestion have you to make, if any, in regard to his testimony about the wool traffic in that territory?

A. I think Mr. McCarthy confused the situation in northern Utah and Nevada and Idaho with the one in southern Utah. He knew that this migration of sheep occurred, and probably confused it.

Mr. SEVERANCE. I suppose that is mere speculation. I don't
7705 think it will do you or Mr. McCarthy any good for you to guess as to what he may have confused or what he may not. I object to this as incompetent.

Q. Now that the objection has been made, you may go ahead with your statement and complete it.

A. There is nothing else to say. I think Mr. McCarthy simply confused the two situations.

Cross-examination by Mr. SEVERANCE.

Q. Did you hear Mr. Babcock's testimony in Salt Lake?

A. Yes, sir.

Q. Do you know Mr. Babcock?

A. Yes, sir.

Q. He used to be connected with the Denver & Rio Grande and the Rio Grande Western railroads, didn't he?

A. Yes, sir.

Q. In what capacity did you know him in Salt Lake, when he was a railroad man?

A. I believe he was traffic manager for the Rio Grande Western.

Q. Do you remember Mr. Babcock giving the following testimony (Vol. 6, p. 2390–1): "Q. At the time the Union Pacific system was separate in management from the Southern Pacific system, what was the fact as to whether there was any competition for wool shipments out of any of this territory, between those systems?

"A. The competition in wool commenced very early in the season—before it was taken off the sheep's back.

"Q. Explain that whole situation.

"A. The Oregon Short Line people endeavored to attract the sheep away from the line of the Southern Pacific west of Ogden; on the part of the Union Pacific they tried to attract it away from
7706 us to Ogden by trailing the live sheep into western Wyoming, and in southern Utah we did our part towards trying to attract sheep over on to our line, away from the Oregon Short Line, and letting the mbe sheared on our line."

Do you remember his giving that testimony?

A. Yes, sir.

Q. Do you think that Mr. Babcock was mistaken, as well as Mr. Love and Mr. McCarthy?

A. I know that they were mistaken.

Q. And you are the only man that knows anything about the wool business in that territory, Mr. Plaisted?

A. Mr. Babcock was correct as to southern Utah, and incorrect as to northern Utah and Nevada.

Q. That is, he was correct as to competition where the Southern Pacific and the Oregon Short Line were not two competing lines?

A. That is where he was correct, yes, sir.

Q. How did the wool traffic move to Boston? That is the great wool market, isn't it?

A. It is one of the great wool markets.

Q. Well, it is the great wool market of the United States, isn't it?

A. One of the great wool markets. St. Louis is a very large wool market.

Q. Is not Boston the largest wool market in the United States?

A. It is the largest, yes, sir.

Q. That is what I thought.

A. St. Louis is also the second largest.

Q. But Boston is the largest wool market in the United States, isn't it?

A. I think so, yes.

Q. When wool is shipped from your country out there to
7707 Boston, taken up primarily by the Rio Grande, how does it ordinarily move to Boston? All rail or boat and rail? From southern Utah, does it move all-rail or boat and rail?

A. It can move either way.

Q. How does it ordinarily move?

A. All rail, in late years.

Q. In 1900 or 1901 how did it ordinarily move?

A. All rail, I think, at that time.

Q. Do you remember Mr. Babcock testifying as follows? I suppose you will concede that he knew something about the movement of traffic over the Rio Grande, won't you? He knew about that probably better than you, didn't he?

A. That depends. I would like to hear what he said.

Q. You would say, wouldn't you, that as to the traffic that was primarily taken up by the Rio Grande and started east, Mr. Babcock was in a better position than you to know how it moved?

A. As to this wool traffic I don't think that he was.

Q. Assuming that Mr. Babcock testified as I am about to read, would you think that he was correct about it, or do you disagree with him——

A. If you will read it, I will tell you.

Q. I am going to read it. That is what I started to do. Don't be in a hurry.

Mr. LOOMIS. Don't let him excite you, Mr. Plaisted.

WITNESS. Not at all.

Q. "Q. When the Union Pacific was able to attract the sheep, which way did they move the wool?

"A. Over the Union Pacific system direct.

"Q. And which way did you move it when you got it?

"A. Sometimes all-rail, but quite largely by rail and ocean.

"Q. Where would you deliver it to the ocean carrier?

7708 "A. At Galveston, largely."

Do you think that is right?

A. What year was he speaking about?

Q. He was speaking about the time previous to 1901.

A. How much previous?

Q. Up to that time. We were examining him about the period when the Southern Pacific and Union Pacific were competitive systems; and that ran up to 1901, I will say for your information. He was asked about the period previous to that.

A. Well, there was a time, back about 1893, 1894 and 1895, when the price of wool was very low, when there was a great deal of wool moving ocean and rail out of that territory, by Galveston and by other water lines. But later on, when its prompt movement became more important to the buyer, it mostly moved all rail. I think along about 1893, 1894 and 1895 Mr. Babcock's statement would be correct; there was considerable movement rail and water.

Q. What was the time to New York and Boston by water and rail, in those days?

A. I could not tell you.

Q. What was the time all rail in those days?

A. It was shorter than the rail and water.

Q. Are you sure?

A. I am sure. But I cannot say how much.

Q. How do you know it was shorter, if you don't know how much?

A. I know it was shorter by reason of the fact that the sheepmen or the buyers of wool were willing to pay more money to have it sent that way. I don't think they would have paid it, if the time had not been shorter.

Q. They paid more than they would to send it by broken water and rail lines?

A. Yes, sir.

7709 Q. But some of it, up to 1895, I understood you to say, moved water and rail?

A. In 1893, 1894 and 1895 there was a considerable movement via the differential routes, at the lower rates.

Q. Did that cease entirely then?

A. No; I think not.

Q. It never ceased entirely?

A. Possibly there may be some of that movement now, but there is very little.

Q. It had not ceased in 1900 and 1901, had it?

A. I would not say it had ceased, but it was very much smaller.

Q. When the Rio Grande secured that business and sent it by rail-and-water, the line that they chiefly worked with was the Morgan steamship line from Galveston to New York, wasn't it?

A. I don't know about that. Possibly it was. They also worked Mallory, I think.

Q. You knew that the Morgan line on westbound business had the Rio Grande as a preferred connection, didn't you?

A. I did not.

Q. If Mr. Hawley so testified, you would assume it to be correct, wouldn't you?

A. I would not dispute Mr. Hawley.

Q. I am glad I have found a man you won't dispute.

A. Well, you might find some others.

Q. If the Rio Grande secured that business and sent it by Galveston and the Morgan line, then the Southern Pacific participated in that haul, didn't they, on that business which was competitive between the Oregon Short Line and the Rio Grande that you have stated in southern Utah?

A. The Atlantic system of the Southern Pacific, you mean?

Q. Well, that is all right; the same company owns the whole
7710 thing. Now, as to the wool that was sheared along the line of the Southern Pacific in western Utah and northeastern Nevada, how did that ordinarily move to the seaboard—Sunset by Sacramento, or go over the Union Pacific?

A. Some of it moved Sunset and some of it moved Union Pacific.

Q. How did it usually move?

A. I don't know how it was divided. Some went both ways, but I could not give you the proportions.

Q. You were the Union Pacific agent. Were you soliciting that movement over the Union Pacific line?

A. Yes, sir.

Q. How successful were you?

A. Not very successful, because I did not solicit it very much; there was not much there to solicit.

Q. How much did you say there was—two million pounds?

A. Out as far as Elko, yes.

Q. How many carloads would that be?

A. About 75 to 90 cars.

Q. And that was not worth bothering with?

A. Oh, yes, but there was a great deal more in other territory.

Q. What did it cost per car to lay that down in Boston?

A. What do you mean by that?

Q. What was the rate in those days? I don't mean what the Union Pacific or Southern Pacific paid for the business, but I mean——

A. I was wondering whether you meant——

Q. No; that is not what I meant. I meant, what was the shipper supposed to pay?

A. I think the rate was about $2, or a little more than that.

Q. $2 a hundred?

A. Yes, sir.

Q. The rate is more than that now, isn't it, from Salt Lake?

7711 A. Yes; all rail, $2.13 to Boston.

Q. Two million pounds would be about $40,000 revenue?

A. Yes.

Q. All together, all the lines?

A. Yes. But at the same time there was about 20 million pounds in other territory that kept me pretty busy.

Q. I am coming to that in just a minute. Now, do I understand from you that there were absolutely no sheep that were competitive—I mean the wool, the shear of the sheep, that was competitive, in northern Nevada, southern Idaho and northern Utah, as between the Short Line on the one hand and the Southern Pacific on the other? I understood you to testify that there was absolutely none. Is that correct?

A. You understand me so, with the exception of about three cars of wool (I don't know just how many sheep that would represent) from sheep that summer in the mountains back of Brigham, Utah.

Q. I notice on your map here that there seems to be quite a trail followed, beginning as far north as St. Anthony in Idaho, thence running down through on two or three lines, across the Southern Pacific into Utah and Nevada; that is correct, isn't it?

A. Yes, sir.

Q. And you say there was never any effort made by the Southern Pacific to stop any of those sheep on the way back and shear them on that line before they reached the Short Line?

A. No, sir, there never was.

Q. And none of them were ever so stopped?

A. No, sir.

Q. And you paid no attention to endeavoring to have them come through, because you knew they had got to come through?

7712 A. Had got to come.

Q. Who were you soliciting in competition with up there?

A. In Idaho?

Q. Yes.

A. The D. & R. G.

Q. They didn't reach up there?

A. They reached up there in connection with the Oregon Short Line, at the time I solicited there.

Q. How long were they working in connection with the Short Line?

A. That gateway was opened in the spring of 1897.

Q. How long did it stay open?

A. It stayed open until about 1905.

Q. That is, business was interchanged between the two lines?

A. Yes, sir.

Q. Now, that was opened in 1907, after the receivership of the Union Pacific?

A. 1897.

Q. I mean 1897—after the receivership of the Union Pacific.

A. During the receivership of the Union Pacific.

Q. And it was at the time that the Short Line was reorganized?

A. Yes, sir.

Q. Now, previous to 1897, when that gateway was closed, you were still up there?

A. No, sir.

Q. Oh, you didn't go up there till after that?

A. I made occasional trips up there on special matters, but not to solicit business. That was our local territory at that time.

Q. That was your local territory—so it had to come to you?

A. Yes, sir.

Q. So prior to 1897 you did no solicitation of sheepmen

7713 in that region?

A. No, sir, there was no occasion to.

Q. There was no occasion for it and you didn't do it?

A. No.

Q. So that these three gentlemen who testified out there about the business being competitive, are all three mistaken?

A. Absolutely mistaken, so far as that part of the country is concerned.

Q. Well, they were testifying to that part of the country. What was the matter that Mr. Babcock referred to if you know, about driv-

ing sheep over into Wyoming—that the Union Pacific drove sheep over into Wyoming and sometimes paid a head tax on them?

A. I don't know what Mr. Babcock referred to.

Q. You don't know anything about that?

A. No, sir.

Q. You never heard of that?

A. I never heard of that, and I don't think anybody else did.

Q. So you are not in position to dispute it—because you never heard of it—or do you care to dispute it?

A. I will dispute it in this way: that I have been in that territory for 21 years and never heard of that sort of thing being done, and I don't believe it could be done without my hearing of it.

Q. Well, that is a good answer to the question. I understood you that the amount of the wool traffic in southern Utah
7714 was about 9,000,000 pounds?

A. Yes, in southern and eastern Utah. That includes wool local to the San Pedro, local to the D. & R. G., and competitive between the two.

Q. How does that wool mostly move to the east now, say along the line of the San Pedro in southern Utah?

A. It moves all rail.

Q. Does it move by way of Los Angeles or by way of Salt Lake?

A. Some was moved by Los Angeles last year, yes.

Q. Have you still got that interesting rate situation out there, by which the wool can be hauled cheaper down to Los Angeles and then sent to Boston than it can go direct from Modena?

A. So far as I know, we still have that interesting situation. The San Pedro published that rate, and I have not heard of their canceling it. The San Pedro at present have no railroad, so we are not worrying very much about it.

Q. So that when the San Pedro line is opened, a man can ship his sheep from southern Utah down to Los Angeles—

A. His wool, you mean.

Q. —and make a back track over the San Pedro in con-
7715 nection with the Short Line and the Union Pacific, and thence on to Boston, for $50 or $60 a car less than he can ship direct.

A. His wool, you mean?

Q. Yes, wool.

A. You said sheep.

Q. I meant wool. Pardon me.

Mr. LOOMIS. I suppose that is pertinent to the issues in this case.

Mr. SEVERANCE. Just enter in the record that Mr. Loomis says it is pertinent to the issues.

Mr. LOOMIS. I think the record will show what I said, and not what Mr. Severance said I said.

The SPECIAL EXAMINER. The stenographer will put down what he said, without being instructed to do it. The stenographer takes down these remarks.

Mr. LOOMIS. Certainly; but the stenographer does not take down what Mr. Severance says I said, though.

Mr. SEVERANCE. Oh, yes, he does.

Q. The rates on wool to Boston from points on the Southern Pacific in northern Nevada and northern Utah, so far as you know, have been maintained at the same figure as the rates by the Short Line and Union Pacific, have they not?

A. They are approximately the same, yes, sir.

Q. Have they not been on a parity?

A. I don't think they agreed to a cent. There is a Sunset rate published from that territory, which blankets all the seaboard points at one rate, as I recall it; New York, Boston, Philadelphia, etc. Our rates from Union Pacific and Oregon Short Line points are different; that is, Boston is a slight differential higher than Philadelphia or New York. But the rates are nearly the same.

7716 Q. Are you sure that there is any difference at all? I think we have tariffs here that show they are just the same—say from Corinne, Utah?

A. Well, the rate is published from Corinne by the Sunset, I think, at 2.075 to all those points.

Q. I am speaking about the rate to Boston.

A. That is the Sunset rate. But the Union Pacific and Short Line rates vary. Our rate is $2.13 to Boston; slightly lower than that to Philadelphia; lower than that to New York; and lower still to Philadelphia and Baltimore, as I recall it. We do not carry these points at the same rates, from our territory.

Q. That is because the Sunset Route takes in all this territory at the same rate?

A. I think so.

Q. What is called the New York common points territory.

A. Yes, that is my understanding.

Q. It is a fact, isn't it, that it has been customary—perhaps the rates have not been absolutely identical, but they have been substantially identical?

A. Substantially identical.

Q. Substantially identical from that whole region?

A. Yes, sir.

7717 JOHN A. REEVES,

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination by Mr. Loomis.

Q. Please state your residence and occupation?

A. Salt Lake City, Utah; general freight agent of the Oregon Short Line and the Southern Pacific Salt Lake division, lines Sparks, Nevada, and east.

Q. How long have you been connected with the Oregon Short Line?

A. I have had that position since October, 1905. I had been with them many years prior to that.

Q. In what capacity?

A. Prior to October, 1905, I was assistant general freight agent of the Oregon Short Line; prior to that, chief clerk for Mr. Eccles, traffic manager; prior to that, chief clerk for Mr. Eccles when he was assistant general freight agent of the Mountain Division of the Union Pacific, Salt Lake City. I have been there altogether since 1886.

Q. During your connection with the Oregon Short Line, I will ask you if you have become familiar with the wool traffic from that territory, including Utah, Nevada and Idaho?

A. Yes, sir.

Q. I wish you would go ahead in your own way and explain that situation briefly.

A. The business, I think, has been carefully gone into by Mr. Plaisted in his testimony. The sheep do migrate from the summer to the winter range and back again, and there is competition while the sheep are in transit in southern Utah.

Q. Between what lines?

A. Between the San Pedro now and the D. & R. G.

7718 Q. In what direction do the sheep migrate in southern Utah?

A. They move eastwardly from the Nevada deserts to the mountains east of the D. & R. G. tracks.

Q. Is there any possibility of the Southern Pacific securing any of that wool traffic in southern Utah?

A. No, sir, that is too far south for them.

Q. Was there ever any possibility of that company securing any wool traffic from that locality?

A. I have never known of it.

Q. Have you ever known of any solicitation on their part in that territory?

A. Not in southern Utah.

Q. How about the wool traffic in the northern part of the state and in northeastern Nevada?

A. The sheep from Nevada that range in Idaho move north across the Southern Pacific tracks to the summer ranges on the Oregon Short Line in eastern and northern Idaho. The sheep are shorn there.

Q. Shorn where?

A. On the Oregon Short Line, in northern Idaho and eastern Idaho; and the wool moves east by the Oregon Short Line. In the fall the sheep return to the winter range in Nevada.

Q. Are the Southern Pacific people able to secure any of the wool from the sheep crossing their tracks upon the migration which you have just described?

A. Not from sheep that summer-range in Idaho, no, sir.

Q. Why not?

A. Because they start to move north too early in the season.

Q. That is, these sheep summer in Idaho and winter south of the Southern Pacific tracks in Nevada and Utah?

A. Yes, sir.

7719 Q. Then, why is it that, as you say, the Southern Pacific cannot secure any of the wool from those sheep?

A. The sheep get to their lambing ground in northern and eastern Idaho I think early in June, and it is a drive of probably 200 or 225 miles (it varies), and they do not make very many miles per day; they graze as they go along. They leave the winter range very early in the spring, perhaps in March; and that would be too early to shear.

Q. What wool are the Southern Pacific people able to secure and have they been, since 1900, along their line west of Salt Lake City?

A. The sheep from which wool is shipped from points on the Southern Pacific range both in the winter and in the summer in Nevada either north or south of the Southern Pacific tracks.

Q. What is the extent of that wool traffic?

A. I think for last year it was a little over 6,000,000 pounds, from points on the Southern Pacific line east of Sparks.

Q. How far is Sparks west of Elko?

A. About 300 miles, I should judge.

Q. And how far is Sparks west of Ogden?

A. Sparks is about 550 miles west of Ogden.

7720 Q. What was the volume of this traffic east of Sparks along the line of the Southern Pacific in 1900 and 1901?

A. I have not those figures with me, but I think it is about the same.

Q. State whether or not it was ever possible for the Oregon Short Line to secure this traffic, that is to say, wool sheared from sheep along the line of the Southern Pacific west of Ogden.

A. It was not possible in Nevada and not possible in northwestern Utah. It might have been possible around Corinne or Kelton.

Q. Why was it not possible?

A. The sheep were shorn in the immediate vicinity of the Southern Pacific tracks, and for the Oregon Short Line to have secured the wool it would have been necessary to have the wool teamed long distances to the Oregon Short Line. The wool is bought by the dealer from the grower on the basis of so much per pound loaded on the cars; so that the grower has to stand the cost of teaming to the railroad. Therefore, naturally, the nearest railroad point governs him in his selection.

Q. What was the volume of the wool traffic which you say the Oregon Short Line might have secured in the neighborhood of Corinne and Kelton?

A. That was very small, quite nominal; it probably did not amount to more than half as much as a hundred thousand pounds. It would depend on the location of the corral, whether they loaded it at Kelton

or Corinne on the Southern Pacific or at Brigham or Collinston on the Oregon Short Line, just north of Ogden.

Q. What is the extent of the wool traffic originating along the line the Oregon Short Line, just north of Ogden.

A. That has varied from 20 to 25 million pounds per year.

7721 Q. How long has that been so?

A. As far back as I can remember. It has varied, but I think that is a good average.

Q. As far back as 1900?

A. Yes, sir.

Q. Has it ever been possible for the Southern Pacific to secure any portion of that wool traffic originating along the line of the Oregon Short Line?

A. No, sir; I don't think so. I know it has not.

Q. Why not?

A. Well, it is the same thing, exactly. The wool is shorn adjacent to the Oregon Short Line, and it would necessitate the teaming of the wool from Idaho across the line and it would be very expensive.

Q. You were with the Union Pacific at Salt Lake City in 1893, I believe?

A. Yes, sir.

Q. In what capacity?

A. I was chief clerk for Mr. S. W. Eccles, assistant general freight agent of the Union Pacific.

Q. Do you recall any circumstances concerning a reduction in the rate on salt made to Idaho for the sheep men?

A. Yes, sir.

Q. I wish you would give the circumstances in connection with that reduction, and what caused it.

A. There was considerable depression that year in the wool and sheep industry, and a delegation of the Idaho sheep growers came to Salt Lake City and called upon Mr. Eccles, asking him for some relief. A reduction was made on stock salt at that time, and other concessions were made. I think there was a heavy reduction granted in the rate on wool to the east, and some other matters.

Q. State whether or not these changes in the rates on salt were made with the idea of drawing bands of sheep or wool from the Southern Pacific to the Oregon Short Line.

7722 A. No, sir; I never heard that feature of it discussed.

Q. Are you acquainted with Mr. McCarthy of Salt Lake?

A. Yes, sir; I have known him for a good many years.

Q. A gentleman who testified in this case.

A. Yes, sir.

Q. He testified in regard to the wool traffic. Did his duties bring him in close connection with the wool business?

A. No, sir. He was city man in Salt Lake City for the Union Pacific.

Q. Speaking again about the reduction in the rate on salt, did the Southern Pacific meet that reduction to their Nevada points?

A. The Southern Pacific never met that rate out to Nevada. Their rates to Nevada today, as I recall them, are higher than our rates to all points in Idaho.

Mr. SEVERANCE. You mean on salt?

WITNESS. Yes, sir. I understand that not so much salt is required by the sheep when they are on the winter range, on the desert, on account of some peculiar property in the sage brush or weeds on which they live, but in the summer ranges, in the mountains, they require a great deal of salt. The movement of stock salt to Nevada has not been heavy, while to Idaho it has always been.

Cross-examination by Mr. SEVERANCE.

Q. You recall that before the merger of the Union Pacific and the Southern Pacific lines, they were separately represented in Salt Lake, don't you?

A. Yes, sir.

Q. And you were in the general offices of the Union Pacific there?

A. Yes, sir.

7723 Q. The Southern Pacific also had a regular soliciting agency there?

A. Yes, sir.

Q. They worked, did they not, in connection with the Denver & Rio Grande quite largely?

A. I would not say quite largely. I think they worked neutrally between the D. & R. G. and the Union Pacific west of Denver.

Q. How about business originating in southern Idaho, this wool business that you have been examined about? Didn't they work with the Rio Grande to get that haul to Boston for the sake of their haul from Fort Worth and their ships?

A. No, sir.

Q. I am talking about the Southern Pacific. You were a Union Pacific man at that time.

A. The Union Pacific man at that time included the mountain division of the Union Pacific, which is now the Oregon Short Line.

Q. You did not catch my question, I think. I am talking about the wool business in southern Utah, not in northern Utah.

A. Oh, I beg your pardon.

Q. The business that was solicited, as was stated by Mr. Plaisted, was subject to competition between the Rio Grande and the Short Line which at that time owned the lines in southern Utah which are now owned by the San Pedro. I say don't you recall that the Southern Pacific agency in Salt Lake worked with the Denver & Rio Grande in securing that business by way of Galveston?

A. I think they did.

An adjournment was then taken until the morning of Thursday, March 3, 1910, at 10.30 a. m.

7724 ROOM 720, CUSTOM HOUSE, NEW YORK CITY,
Thursday, March 3, 1910, 10:30 a. m.

The hearing was resumed before the special examiner, Hon. Sylvester G. Williams, at the above time and place.

Present: On behalf of the Complainant, Mr. C. A. Severance, Mr. G. E. Husted; on behalf of the Defendants, Mr. Peter F. Dunne, Mr. N. H. Loomis.

ERNEST O. McCORMICK,

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination, by Mr. DUNNE.

Q. Mr. McCormick, what is your full name and place of residence?

A. Ernest Oliver McCormick; Chicago, Illinois.

Q. What is your official relation to the Union Pacific and Southern Pacific system?

A. Assistant director of traffic.

Q. How long have you occupied that position?

A. Since 1904.

Q. Will you state briefly, in your own way, your railroad experience, and the positions that you have filled.

A. Beginning with 1877: First, for a short time, in the engineering department; then car accountant; then in the freight department, from the making of notices and delivering them, through station-work, up to general agency, general freight office; then general agent of the Fast Freight Line, Great Eastern Fast Freight Line, Louisville, Kentucky; then passenger department, Monon Route, to general passenger agent of that line; then general passenger agent Cincinnati, Hamilton & Dayton road, Cincinnati; and in 1893 to the Big
7725 Four as passenger traffic manager; and in 1899 to the Southern Pacific as passenger traffic manager, headquarters San Francisco; and in 1904 to Chicago as assistant traffic director.

Q. I want to direct your attention to the passenger train service of the Southern Pacific Company in the year 1900, with special reference to the southern or Sunset Route between New Orleans and Los Angeles and San Francisco, and between El Paso, Los Angeles and San Francisco; and I will ask you to state, if you will, what through train westbound daily the Sunset line had in 1900,—giving the days and the hours of leaving and arriving, if you have the memorandum.

A. In 1900 the Sunset Route had one daily through train leaving New Orleans in the morning. That train consisted of ordinary equipment, and made the through trip to Los Angeles in very good time considering the features that control traffic along that particular line, which are an arbitrary at New Orleans on account of connections, and at that time an arbitrary at San Antonio on account of deliveries and connections from the north (and which still prevail to a

large extent), on account of El Paso deliveries to the Mexican lines and connections with the necessary arriving at Los Angeles at a reasonable hour of the day and as was then thought a good idea to break the journey and permit a man a few hours at Los Angeles before continuing on to San Francisco. It was considered that that might be possibly a feature of attraction.

Q. May I interrupt you to ask in what sense you use the word "arbitrary."

A. The train could not leave New Orleans in those days at any other hour and be served by the connections from the east and north;
7726 and the arbitraries beyond that I have explained by reason of the connections; and, as they had only the one through train a day, it was all-important to those points and to connecting lines that those connections be made.

Q. Now will you proceed? You have the detail?

A. Yes. Do you want the schedule of that train?

Q. Yes.

A. That was called No. 9. It left New Orleans at 8.15 a. m. (and for convenience I might use the days of the week) say Monday; arrived at San Antonio at 8.45 a. m. Tuesday; left San Antonio 9.15 a. m. Tuesday; arrived at El Paso 8.40 a. m., Central time, Wednesday; left El Paso 7.20 a. m., Pacific time, Wednesday; arrived at Los Angeles 11 a. m. Thursday; leaving Los Angeles at 11.40 a. m. Thursday, arriving at San Francisco at 7.45 a. m. Friday. That train ran by the San Joaquin Valley, with arrival at Oakland Pier.

Q. Will you give the consist of that train?

A. It had the usual head-end cars, coaches, tourist cars and sleepers; no diner nor observation car, the meals being taken at stations en route.

Q. Have you a memorandum compiled of the total time, in hours and minutes?

A. I will give you that in a minute.

Q. At that time, in 1900, was the Sunset Limited train operated on that route—during any part of the year 1900?

A. It was put on in 1900.

Q. At what time in 1900?

A. It was put on in the fall of 1900; it was inaugurated in November.

Q. Was that a season train?

A. Yes, a seasonable train; we so styled it because it ran for the winter season, just for four months of the winter season.

7727 Q. Have you the schedule of that train for the season of 1900?

A. It left New Orleans 10.45, say Monday morning, after the eastern and northern connections arrived; arrived at Los Angeles 7.45 p. m. Wednesday, and at San Francisco at 10.45 a. m. Thursday.

Q. What was the consist of that train?

A. May I also add that this train ran at that time through the San Joaquin Valley as well.

Q. In 1900?

A. Yes. It consisted of one combination baggage, buffet, and library car; that is, the one car carried baggage, the drinks, the library, etc., and also contained a bath-tub, and carried a barber. The car was located next to the engine. The next car was a diner; the next car was a sleeper containing six sections, one stateroom, one drawing room; the next car was a 14-section drawing-room sleeper; the next car was an observation sleeper, which contained 7 compartments, and the rear end was a lounging room and parlor for ladies and gentlemen, etc.

Q. Do you mean the rear end?

A. The rear end of that car was what we called our observation-end; but for the purpose of economy the forward end of the car contained drawing rooms or compartments for sleeping.

Mr. SEVERANCE. Just like the ones on the 18-hour train between here and Chicago?

WITNESS. Yes. The forward end serving as a café, and all that. This car was simply a lounging room, etc. That train, by the way, was lighted by Pintsch gas.

Q. You say that through westbound daily train was No. 9. 7728 What was its consist?

A. The consist was as I gave you before; one combination baggage-buffet-library, etc. Just about the same.

Q. Did it have an observation car?

A. Are you referring now to seasonal train?

Q. Yes.

A. That was the train that I just described.

Q. Have you a memorandum of the various seasons from 1894?

A. Yes.

Q. Did the train service inaugurated November 1, 1904, have an observation car? Have you a memorandum as to that?

A. The Sunset Limited?

Q. Yes.

A. Yes. Do you mean did the new train that was inaugurated in 1894 have an observation car? The seasonal train that was inaugurated in 1894 was similar, as I say, to the above mentioned. The train was the same with the exception that it had no observation car.

Q. Now, I want to clear up any possible confusion. You made some reference to the Sunset Limited being put on in 1900, and you spoke of the Sunset Limited service being inaugurated in 1894.

A. I made an error in saying 1900. The Sunset Limited was inaugurated in 1894.

Q. Did it run during the season of 1900?

A. Yes.

Q. That was the same Sunset service from 1894 during various seasons, including the season of 1900, is that correct?

A. The Sunset Limited was inaugurated in November, 1894, and ran until 1895, weekly, and then ran in 1896, 1897, etc.——

Q. I will come to that. All I wanted to understand was whether that train ran during 1900—the seventh season.

7729 What was the number of that train in the opposite direction?

A. No. 10.

Q. Have you the schedule of that train returning as No. 10?

A. Yes.

Q. Will you give it, please.

A. I will give you both of those trains. You want No. 10 first?

Q. If you please.

A. It left San Francisco at 5 p. m. (We will use the same days to designate) say Monday, via Oakland Pier; arrived Los Angeles 1.30 p. m. Tuesday; left Los Angeles 2 p. m. Tuesday, arrived at El Paso 6 p. m., Pacific time, Wednesday, leaving at 8.20, Central time, Wednesday, arriving San Antonio 7.30 p. m. Thursday, leaving San Antonio 8 p. m. Thursday, arriving New Orleans 6.30 p. m. Friday, in time for eastern connections. The consist of that train was a return of the so-called No. 9. The Sunset Limited left San Francisco at 5 o'clock p. m., say Monday, just preceding No. 10. It was scheduled out at the same time, but the Sunset Limited ran out first and ran away from it. Then the Sunset Limited was the limited train eastbound; but I made that explanation because they were both scheduled out at 5 o'clock. They used the same boat. The Sunset Limited went down ahead of the other train. It went by Oakland Pier and arrived at Los Angeles at 7.30 a. m., Tuesday (whereas you will notice that the other train did not get there until 1.30 p. m.); left Los Angeles 8 a. m. Tuesday; arrived New Orleans 7.20 p. m Thursday; running the same equipment.

Q. When was the so-called Sunset Limited service inaugurated?

A. In 1900.

Q. How do you designate the service which was inaugurated November 1, 1894?

A. We gave it the same designation—Sunset Limited.

7730 A. The seventh season—you are talking about 1900?

Q. Yes.

A. For the seventh season the train ran from November 7, 1900, to April 25, 1901.

Q. I understand you, then, to convey the idea that there was a Sunset Limited in 1894 and then some other Sunset Limited in 1900? 1900 was one of the seasons?

A. That is right.

Q. You say there was no observation car in 1894, on that train?

A. I answered that question when I said that in 1894 the consist of that particular train that I thought you referred to, that you styled Sunset Limited, lacked an observation car. I probably better give you the consist just as I have it here. On that first train, No. 9, that slow train, they had no observation car. The Sunset Limited

which followed, had an observation car. That was the second train that I gave you.

Q. Is that the observation sleeper containing 7 compartments?

A. That is the observation sleeper containing 7 compartments.

Q. Did it have any observation car over and above that?

A. No. It had a café car at the head-end that contained the library, barbers, etc. Now (if I misconstrue your question) we have today what we call an observation car which is an entirely different car; it contains no space other than that for the comfortable occupancy of loungers and men who want to play cards and drink. That car is divided into two compartments. Now, this train had no such car as that; that is what I want you to know.

Q. Yes, but from the beginning it had this observation sleeper?

A. Yes, that is right.

7731 Q. Now, will you give me, if you please, season by season, the period during which the train ran, and, if you have the information, how many times a week it ran.

A. Yes. I can give you that.

Q. And also, if you have it, the time west and east.

A. Yes. It ran from November 1894 to April 1895 weekly.

Q. Have you the exact date?

A. Yes; November 1, 1894, to April 11, 1895, are the exact dates, I believe; and it ran weekly.

Q. Have you the total time?

A. Yes; 74 hours, say, westbound.

Q. And eastbound what time?

A. The first season it ran November 1, till April 11 1895, westbound, and made 74 hours' time, and it was weekly.

Q. I think you gave the eastbound time. Will you give it again?

A. No, I didn't. It ran in 72 hours and 20 minutes eastbound. I was confining myself to the westbound train. In the second season it ran November 5, 1895, to April 16, 1896; semiweekly from November 5 to March 16, and weekly from March 17 to April 16. That is westbound. Do you want the time of that eastbound?

Q. Yes.

A. 78 hours and 55 minutes.

Mr. SEVERANCE. What was the time westbound?

WITNESS. The second season, November 5, 1895, to April 16, semiweekly from November 5 to March 16, westbound, 77 hours and 45 minutes.

Q. Now will you proceed.

A. The third season, westbound, November 7, 1896, to April 1, 1897 (semiweekly from November 7 to March 22, and weekly from March 23 to April 1) 76 hours and 45 minutes; eastbound time,

7732 78 hours and 50 minutes. The fourth season, October 18, 1897, to April 28, 1898, semiweekly. Then an arrangement was made to run the train that season out of Chicago by the Chicago & Alton road, in connection with the Iron Mountain and the Texas & Pacific, and over the Southern Pacific from El Paso, but they had

a quarantine at New Orleans and could not run it via New Orleans. But the time was approximately the same—76 or 77 hours.

Mr. SEVERANCE. From Chicago?

WITNESS. Yes. It ran Chicago & Alton, Iron Mountain and Texas & Pacific via El Paso. The time was approximately the same. That season we could not run it by New Orleans, on account of the yellow fever, as I say.

Q. Do you remember when that quarantine was raised?

A. About December 30th, say, 1897. After the raise in the quarantine, we put on one car and ran it eastbound in connection with this train; that was from a train that we called 19 on the Southern Pacific; running into this train at El Paso. And we carried that through to New Orleans. And westbound we ran it into that train and carried that one car to San Francisco, on train No. 20. That provided, after the quarantine, the service east of El Paso in this train, which proceeded on to Chicago. Now the fifth season?

Q. If you will.

A. November 29, 1898, to April 29, 1899, semiweekly, via the old route. The westbound time, again, was 76 hours, say, and 45 minutes. That is, it was re-established via New Orleans. And eastbound it made a little longer time—79 hours, say, and 30 minutes. In addition, we ran a train that was called the Pacific Coast Limited,
7733 out of Chicago. That train ran by the route of the Sunset Limited the year previous; that is, the Chicago & Alton, Iron Mountain, Texas and Pacific, and S. P., continued to operate a train out of Chicago by that other route, although the Sunset was on the other way, and the train was of the same character and had about the same running time as the Sunset Limited over that previous route for that previous season.

Q. When was that train discontinued?

A. That was discontinued after the first of the year, on notice from the Iron Mountain road and Texas & Pacific that they could no longer run it, could not operate it another season, they having just about made arrangements to rehabilitate their lines and to do a great deal of work building up their lines. That was the reason they gave to us, and we could not go behind that reason, of course.

Q. Now the next season.

A. The sixth season the train ran December 15, 1899, to April, 1900, as a semi-weekly train.

Mr. SEVERANCE. How often did that Pacific Coast Limited run?

WITNESS. It ran just that one season as independent of the——

Mr. SEVERANCE. Yes, but was it weekly, semi-weekly, daily, or what?

WITNESS. It was a semi-weekly train.

Mr. SEVERANCE. Did it run on the same days as the other, or different days in the week?

WITNESS. I will make a memorandum of that. We will secure it for you and incorporate it here, so as to have a complete record of the service.

Mr. SEVERANCE. I didn't know but you had it here.

WITNESS. No, I haven't it here.

7734 Q. Now, give us the next.

A. The sixth season, December 15, 1899, to April 19, 1900, Sunset Limited, over the old route, semiweekly. That year we tried a little better time. 74 hours. 74 hours, westbound, and 72 hours 20 minutes eastbound. The seventh season we put it on earlier—November 7, 1900, and we ran it to April 25, 1901; triweekly from November 7 to April 1, on a 74-hour schedule westbound, and weekly from April 2 to April 25; 72 hours and 20 minutes eastbound schedule. We began operating this train via the Coast Line April 1, 1901. The eighth season, December 2, 1901, to April 21, 1902, we ran it triweekly again, changing the date from December 2 to March 31; and weekly from April 1 to April 21.

Q. Will you give us the time?

A. 73 hours and 45 minutes westbound and 72 hours and 20 eastbound.

Q. Did you operate that Sunset Limited via the Coast Line?

A. Yes, beginning with April 1, 1901.

Q. When was the Sunset Limited discontinued?

A. We discontinued that train after the dates given. The eighth season was December 2, 1901, to April 21, 1902, tri-weekly December 2 to March 31 and weekly April 1 to April 21. We began operating it via the Coast Line April 1, 1901. After the season was over in 1902, we met as usual to make our arrangements for the fall campaign the next year; and in convention, after intercommunication by wire, letter, etc., of the men best posted in the Southern Pacific and of connecting lines serving this route, it was concluded that the service was not adequate to the needs of the route, and suggestions were

7735 made for the improvement of the service via that line, taking into consideration all of the necessities of that line, which were peculiar; arbitrary leaving time at New Orleans, with the subsequent connections, etc., as I have given them to you, westbound, and the disadvantages that we have labored under in having to coax a passenger in the east to arrange his leaving time from home at a time that would just get him to New Orleans in time to serve our convenience out of New Orleans with this train—we met that particular obstacle up in New England, where people did not want to ride on Sunday, and they would not ride on Sunday, but would leave home on a day that would let them make the journey from the east to the west and not take in Sunday. The class of people in New England and the east from which we drew a considerable patronage, were advised that there were other sleepers on other trains via other routes that were cheaper per berth than the sleepers, and afforded good accommodations,—like the tourist sleeper; the difference in rate from New Orleans in that character of car being, I believe, $5.75 for a berth as against $11.50 the other way. So, taking all these things into consideration, recommendation was made that we have daily

service out of New Orleans to the coast, and that that daily service consist of equipment that would serve the needs of the people. I was one of the strong advocates of that daily service and of a little different character from what we had had before, having been located in competitive territory and believing it was necessary to have something of the sort. Again, the train was, to our mind an unpaying train, and its time did not approximate nearly enough that of
7736 its competitor—the Santa Fe, which has been strengthening itself since 1894 and 1895. And we believed that by the daily train we could secure more business and make more money, particularly on account of the peculiar class of people that we handled via that route. It was the course of least resistance so far as anyone was concerned who was afflicted with organic heart trouble, or heart trouble, or pulmonary complaint, or was weakened to a great degree, it being the line of the lowest altitude. So recommendation was made that a new service be inaugurated and that the attractions of that line be exploited by the expenditure of money in advertising, etc., using New Orleans, attractions to secure business that way, and San Antonio, Juarez, Paso del Norte, the old Mexican town at El Paso, and it was possible to stop over at Los Angeles for a few hours, or as long as the passengers wanted on the limit of their tickets, etc.

Q. The Santa Fe route did not reach those points of course?

A. Did not reach New Orleans, San Antonio and El Paso; nor did any other line. That is the reason why we thought it was profitable or would be profitable to run that other train from Chicago—continue that other train down that way, because it did not draw from this particular territory where we drew our business to a great extent, although the Santa Fe did draw some from the eastern territory. So in the fall of 1902 we put on another daily through train.

Q. Have you a memorandum as to the date when it was put on?

A. This train ran from November 15, 1902, to July 26, 1903.

Mr. SEVERANCE. What train is this?

WITNESS. This is the second train; this is the new train
7737 that I was about to describe.

Q. Is this the daily train you have just been speaking of?

A. In the fall of 1902, I was going to tell you about the new train we were going to put on.

Q. I would like you to give me the number of that train and the name by which it was styled, and the consist.

A. The number was 9. We styled it "Sunset Limited." It was made up of the usual head-end cars, chair car from New Orleans to Los Angeles, diner New Orleans to Los Angeles, tourist sleeper New Orleans to San Francisco, compartment sleeper New Orleans to Los Angeles, observation sleeper, New Orleans to San Francisco.

Q. What was that tourist sleeper?

A. It was carried from the east, as far as Washington, D. C. It ran one day a week from there, on this train; and another day a week one car, similar in construction and design, etc., ran from Cincinnati; and another day in the week that car went from Chicago

via the Illinois Central to New Orleans. Another day we ran one by the M. K. & T., say, from St. Louis, connecting via San Antonio. In other words, we gave the train a maximum service and such equipment as it could carry.

Q. Have you the schedule of No. 9?

A. Yes. It left New Orleans at 11:45 A. M. say Monday; left San Antonio 8:30 A. M. Tuesday; arrived at El Paso at 7 A. M. Wednesday, Central time; left El Paso 5:15 A. M. Wednesday, Pacific time; arrived Los Angeles 7:30 A. M. Thursday; and we left Los Angeles at 12 o'clock Noon on Thursday and arrived at San Francisco Friday, consuming 94 hours and 40 minutes approximately.

7738 Mr. SEVERANCE. When did you arrive?

WITNESS. At 8.25 a. m. Do you want the return of that train?

Q. Yes. What was the number returning?

A. No. 10. It ran as follows: leave San Francisco 7 o'clock p. m. Monday; arrived at Los Angeles at 12.30 noon on Tuesday; left 2.40 p. m. on Tuesday; arrived El Paso 6 p. m. Wednesday, Pacific time; left El Paso 8.20 Wednesday, Central time; left San Antonio 7.50 p. m. Thursday; arrived New Orleans 6.45 p. m. Friday; 93 hours and 45 minutes.

Q. Was any other daily through train put on?

A. Yes. Up to that time we had been serving only the morning connections into New Orleans, either by the old inferior train or by the Sunset Limited, and there was demand on the part of these same men, in the same convention that I spoke of, for an attempted double daily service; and we put on double daily service by means of a train called No. 7, leaving New Orleans at night, after the arrival of the connections.

Q. Did that train have any designation?

A. Yes. We called that No. 7.

Q. You have spoken of one of the trains as the Sunset Limited. Was there any designation of No. 7?

A. It was entitled the "Pacific Express."

Q. Have you a memorandum as to the schedule of the Pacific Express?

A. It left New Orleans 9 p. m., say Monday; arrived San Antonio 5.30 p. m. Tuesday; left San Antonio 5.45 p. m. Tuesday; arrived El Paso 3.50 p. m. Wednesday, Central time; left El Paso 2.10 p. m. Wednesday, Pacific time; arrived at Los Angeles 4.45
7739 p. m. Thursday; left Los Angeles 5.30 p. m. Thursday; arrived at San Francisco 11.35 a. m. Friday.

Q. Have you a memorandum of the time?

A. It was 88 hours and 35 minutes.

Q. I wish you would give the schedule returning, if you will.

A. I will. May I comment on that schedule a little as I go along?

Q. I wish you would.

A. You will note the difference between the former schedule of the train that left in the morning, 93 or 94 hours, and this train was 88 hours. The former train being the higher grade train, you naturally would think we would run the higher grade train faster than this; but, as I explained to you, the schedule of the higher grade train was fixed in accordance with what we considered the desirabilities, or the exigencies, or the features of the route more nearly. We did not run it any slower than we had to, but we tried to fit it to the route over which it ran. This train, leaving at night, we operated in 88 hours and 35 minutes, and we ran this train via the San Joaquin Valley from Los Angeles to San Francisco, returning as No. 8, left San Francisco 9 o'clock in the morning, say Monday; arrived at Los Angeles at 6.45 a. m. Tuesday; left Los Angeles 7.30 a. m. Tuesday; arrived El Paso 11.50 a. m. Wednesday, Pacific time; left El Paso 2.10 Wednesday, Central time; arrived at San Antonio 11.50 a. m. Thursday; left San Antonio 12.15 p. m. Thursday; arrived at New Orleans 8.35 a. m. Friday,—consuming 93 hours and 35 minutes. This train also ran down the San Joaquin valley.

Q. From what time to what time did this train run?

7740 A. From November 15, 1902, to July 26, 1903.

Q. That is 7 and 8?

A. 7 and 8. And again from December 16, 1906, to September 1, 1907.

Mr. SEVERANCE. What was that other date? November 15, 1902, to July 26?

WITNESS. Yes, ran from November 15, 1902 to July 26, 1903.

Mr. SEVERANCE. That is just the same date as the Sunset Limited, then. I just ask you so as to be sure you have not confused the two.

WITNESS. I don't think I have, because this was taken from the old schedules. I might be permitted to explain that it was with considerable difficulty we got the old schedules, owing to the San Francisco end of it being burned up, and these things not being get-at-able. This train ran from November 15, 1902, to July 26, 1903, and again from December 16, 1906, to September 1, 1907.

Q. It was not operated, then, as a through daily train, after July, 1903?

A. It was not, because of enforced economy in the panic, etc.; and it did not go on again as a through daily train until December, 1906.

Q. Was it operated at all beginning with August, 1903, up to December, 1906?

A. Yes. Beginning with August, 1903, and until December, 1906, it was operated only between New Orleans and San Antonio and between El Paso and San Francisco, with the exception of four months in 1905, when it was cut off between El Paso and Los Angeles; but it was operated during those four months, between Los Angeles and San Francisco, as 7 and 8. That is for those four months it was lopped off between El Paso and Los Angeles.

Q. From December, 1906, until September, 1907, how was it operated?

A. As a daily through train between New Orleans and San Francisco in both directions.

7741 Q. Now, you say until September, 1907. Under what circumstances and to what extent was it taken off, in September, 1907?

A. From December, 1906, (if you will permit me to go back) until September, 1907, this train was operated as a daily through train between New Orleans and San Francisco, in both directions. It was taken off between San Antonio and El Paso (that big gap in there) after September, 1907,—again, account of the panic, and there not being enough through business to warrant it being operated between New Orleans and San Francisco, nor enough through business to warrant it being operated over that gap between San Antonio and El Paso, which was absolutely an unproductive country.

Q. You mean local business?

A. Local business. There is nothing contributing to it at all. It is like a bridge—a steel arch over the dry bed of a river—the desert. There is nothing in it. You have got to lift everything over it. And it always affects the service that way.

Q. The present daily train is the one you call 9 and 10. Will you explain how that train serves the travelling public, the time being longer than that of the Sunset Limited as compared with the seasonal train?

A. The present train, 9 and 10 better serves the travelling public, although the time is longer than that of what we call the seasonal Sunset Limited. It is necessarily slower on account of the ampler accommodations and the excess of the connections as compared with that other train, which was extreme in limitations in regard to both of those.

Q. Have you any memoranda that you can give us with re-
7742 spect to the connections of No. 9 westbound?

A. Yes. Westbound, all of No. 9's connections arrive at New Orleans in the morning, from 7.50 a. m. until 10.55 a. m. It leaves New Orleans at 11.55 a. m. It is also governed by connections, as I have said before, with other lines en route.

Q. Can you give us that with some particularity?

A. Yes. At San Antonio with the M. K. & T., from which it takes a through sleeper weekly from St. Louis to San Francisco.

Mr. SEVERANCE. Tourist?

WITNESS. Yes. At Spofford, for Mexico and south via Eagle Pass.

Q. You mean Old Mexico?

A. Old Mexico. And at El Paso again with the Mexican Lines, with the Santa Fe, with the El Paso & Southwestern, and all that mining territory tributary, to which there is now a good travel; at Lordsburg with the Arizona & New Mexico, up to Clifton and Morenci, and all that mining territory; at Bowie with the Gila Valley, Globe & Northern; at Maricopa for Phoenix. It carries a standard sleeper from Tucson to Phoenix and periodically from Phoenix to Los Angeles. By that I mean it is not a daily.

Q. Is there any connection at Los Angeles?

A. At Los Angeles it connects with the Santa Fe for San Diego and all branch lines for Southern California points.

Q. Have you any memorandum as to the arrival time at Los Angeles and connection there?

A. It arrives at Los Angeles at 1.30 p. m. and connects with train No. 17, leaving there via the Coast Line at 2.35 p. m., which train arrives at San Francisco the following morning at 8.30; there-
7743 by reducing No. 9's time, as you will see later on, 3 hours and 10 minutes.

Q. How is it in respect to passengers from No. 9 taking the connection No. 17 by the Coast Line?

A. If they did not want to stop at Los Angeles, they are privileged to take this immediate train No. 17 via the Coast Line, or we permit them to take the "Owl" leaving Los Angeles a little later.

Q. How about their sleeping car accommodations on the transfer to No. 17?

A. We arrange that for them at request, before they get into Los Angeles.

Q. What time does the Owl leave Los Angeles?

A. They may take the Owl, for the San Joaquin Valley, which leaves Los Angeles at 6 o'clock p. m., and arrives at San Francisco at 8 o'clock the following morning:—thereby reducing its own time again 3 hours and 40 minutes. Or they can continue in their sleepers (that is, with the same accommodations) at Los Angeles until 7.30 p. m. and go via the Coast Line and arrive at San Francisco at 11.40 in the morning.

Mr. Severance. That is, they can stay right in their sleepers?

Witness. Yes, or get out and run around Los Angeles.

Mr. Severance. I mean that sleeper goes through?

Witness. Yes.

Q. How is it with respect to sleeping accommodations on the Owl for such passengers?

A. They can likewise have their sleeping car accommodations arranged for on the Owl.

Q. They are entitled to use the Owl?

A. Yes.

Q. What is the Owl train?

A. The Owl is the train in California like the 18-hour trains between Chicago and New York.

7744 Q. Between what points?

A. Between Los Angeles and San Francisco. It has been operated for a good many years, and although that territory was strictly local they put on a train which they called the Owl, and offered the best service that money could obtain, and they did it for the convenience of the people locally between San Francisco and Los Angeles, 482 miles; and the time varied, according to the rebuilding of the road, or wash-outs, or anything like that, from 14 to 15 hours. But it nearly always is run from Los Angeles to San Francisco, say

at 5 o'clock at night out of Los Angeles, arriving at San Francisco at 8 o'clock in the morning.

Q. I asked you about these transcontinental passengers. They are entitled to use this Owl train in the connection that you have mentioned?

A. Yes.

Q. Through what part of the state or over what line does the Owl train run?

A. It runs through what we call the San Joaquin Valley, up through the central part of the state.

Q. In contradistinction to the Coast Line?

A. In contradistinction to the Coast Line, over the Tehachape Mountain, through Bakersfield, Fresno, Merced, Modesto, through the raisin and fruit district of California.

Q. You have said that these transcontinental passengers use the Coast Line also, in going from Los Angeles north.

A. They are privileged to use the Coast Line, and that train goes through Santa Barbara, San Luis Obispo, Paso Robeles, the location of the famous hot springs, and Del Monte—the show places, San Jose, and up through the Santa Clara Valley into San Francisco.

7745 Q. After the Coast Line was opened, did the service continue upon the Owl?

A. Did the Owl still continue?

Q. Yes.

A. Oh, yes.

Q. Has it been operated continuously, concurrently with the Coast Line?

A. Yes; never taken off.

Q. What is the situation in respect to these passengers leaving the New Orleans train at Los Angeles?

A. Most of the passengers leave it at Los Angeles or points east of there, or else they are destined to local points on the locals. From Los Angeles we deem it largely a local train, providing service Los Angeles to San Francisco. The few passengers who stick to this train for the through trip to San Francisco are these who do not want to be annoyed by changing their baggage and who are enjoying or did enjoy the lay-over at Los Angeles for the afternoon, breaking the journey, running around. It is a privilege that has been advertised very strongly and it has proven a great attraction to that route.

Q. Eastbound the train is numbered 10, is it not?

A. Yes.

Q. What is the leaving time at San Francisco and the arriving time at Los Angeles?

A. It leaves San Francisco at 4 in the afternoon and arrives at Los Angeles at 8.30 in the morning.

Q. Does that go by the Coast Line or the Valley Line?

A. It goes down by the Coast Line.

Q. Is there any additional service which may be used in connection with that train, and by which passengers may leave San Francisco later?

7746 A. Yes. They can take the Owl and go down through the San Joaquin Valley.

Q. How much later can they take the Owl?

A. The Owl leaves San Francisco at 6 o'clock.

Q. You say No. 10 leaving at 4 o'clock arrives at Los Angeles at 8.30. Suppose the passengers leave San Francisco two hours later by the Owl; when would they get into Los Angeles?

A. They would get there at 8 o'clock in the morning.

Q. Then, when does that train No. 10 leave Los Angeles?

A. At 12 o'clock noon.

Q. That is a lay-over, then, in the other direction, to use your expression?

A. Yes. In either case they have the morning at Los Angeles, and then they can leave at 12 o'clock noon, taking the sleeping accommodations that they have engaged at San Francisco, and continue the journey on to the east of Los Angeles. This lay-over at Los Angeles has also proved an attraction to the route.

Q. Have you a memorandum in reference to the eastbound movement of No. 10, covering its connections?

A. Yes.

Q. I wish you would give that if you have it.

Mr. SEVERANCE. What time did you say the train which left San Francisco at 4 P. M. gets into Los Angeles?

WITNESS. It gets in there at 8.30 A. M. No. 10's hour of departure from Los Angeles is largely governed by the branch line connections in Southern California.

Q. I wish you would give the connections eastbound of that No. 10.

A. It connects at Maricopa with the Maricopa & Phoenix, delivering that line the standard sleeper from Los Angeles. It has a

7747 connection from Bowie over the Gila Valley, Globe & Northern; at El Paso with the Texas & Pacific, and the National Lines of Mexico as well as the El Paso & Southwestern; at San Antonio it delivers the San Francisco weekly tourist sleeper to the M. K. & T. for St. Louis; at Houston it makes connections for Galveston and with the Houston & Texas Central for Dallas. Its New Orleans arriving time, 6:45 P. M., is governed by its eastern connections, which leave there at 7.10 P. M. to 8 P. M.

Q. With reference to these trains 9 and 10, from year to year, have you any reference to the improvements in service?

A. They have been improved from year to year until they now embody about all the features of the so-called high-class limited trains, like the North Coast train of the Northern Pacific, like the Los Angeles Limited over the Union Pacific and San Pedro, like the Golden State Limited over the Rock Island and Southern Pacific. They carry every sort and character of car that those trains carry—diners, sleepers, observation cars, all classes of first-class equipment,

and in addition they carry tourist sleeping cars which afford passengers of limited means comfortable quarters, in perfectly good sleepers, as I said before, between California and New Orleans, at $5.75 per berth as against $11.50 in so-called standard cars, the passenger in both cases receiving the same carrying service from the railroad.

Q. How are these cars lighted?

A. They are electric-lighted now, and supplied with fans.

Q. What is the character of the observation cars?

A. An entirely different class of car from the other described car—what we call a composite café car, the inclusion of which makes us run an additional car on the train. We used to carry bag-
7748 gage in that car, but as we considered it extremely hazardous to put first-class travel up next to the engine, we provided a car with accommodations for smoking and drinking, and so forth, at the rear of the train, with big lounging space in the observation end, rotunda, etc.

Q. Have you any memorandum of through cars from eastern territory operated in connection with these trains to and from California?

A. Yes. An unusual through car service is afforded by 9 and 10.

Q. I wish you would specify.

A. The only through cars between the so-called trunk line territory and California are operated via New Orleans in connection with these trains. The trunk line territory is not invaded by any other through cars, by any other means. These cars run from Washington, D. C., to San Francisco.

Q. Have you a memorandum of the number of cars per week?

A. It is now 4 cars a week, and they run over the Southern Railway, Atlanta & West Point, Louisville & Nashville, and the Sunset Route. They began with a weekly car, and got up to four cars a week. On other days in the week this same train carries a car from Chicago to San Francisco via the Illinois Central to New Orleans and Sunset Route west; another day it carries a car from Cincinnati to San Francisco by the Baltimore & Ohio Southwestern to Louisville, Illinois Central to New Orleans, and Sunset Route west; another day a car from St. Louis to San Francisco via the Missouri, Kansas & Texas to San Antonio, and Sunset Route west.

Mr. SEVERANCE. That makes 4 days a week from Washington and 1 day from each of the other places?

WITNESS. Yes.

7749 Mr. SEVERANCE. Only one tourist car?

WITNESS. I think on one day it has two tourist cars.

Q. Have you any memoranda in relation to the service between eastern points and California, say between Chicago and Los Angeles and San Francisco, other than and over and above this Sunset Route?

A. Yes. In addition to the service between New Orleans and California already described, the so-called Sunset route west of El Paso had through service since 1902 between Chicago and Los Angeles and San Francisco by the Rock Island Route.

Q. Have you a memorandum of the date when it was inaugurated?

A. Inaugurated November 2, 1902.

Q. Have you the data as to the character and consist of that service?

A. A very high class electric lighted train, called the Golden State Limited, with dining car, tourist sleeper, buffet smoker, standard sleeper, Chicago to San Francisco, standard sleeper Chicago to Los Angeles, and observation sleeper Chicago to Santa Barbara.

Q. Does it carry a tourist sleeper?

A. Yes.

Q. Did you mention the tourist sleeper?

A. Yes.

Q. I wish you would give us the data as to the operation of that service.

A. It was operated daily from November 2, 1902, to March 28, 1903; semi-weekly from March 28, 1903, to April 30, 1903; it was resumed December 20, 1903, with the same equipment, and ran daily until April 15, 1904; resumed December 25, 1904, and has run daily until the present time.

Q. Was any change made in the equipment or consist?

A. The only change up to January 2, 1910, being, in the summer, a chair car was added, and the train during the summer months
7750 was called the California Express.

Q. You say the chair car was added on the 2nd of January, 1910?

A. Yes, that is right.

Q. January 2nd?

A. The only change up to January 2nd was the addition of the chair car during the summer months.

Q: You say that train was called——

A. And then during the summer months we called it the California Express. Now, on January 2, 1910, the tourist sleeper was taken off this train, and after that only first class equipment was left. I want to make a point of that—I want to emphasize it. On January 2, 1910, the tourist sleeper was taken off of this train and only first class equipment was left.

Q. On January 2nd, 1910, was there any other service installed?

A. Yes, another train was inaugurated.

Q. I wish you would give us the data, if you have the memorandum before you.

A. On January 2nd, 1910, another train was inaugurated over the Sunset Route from El Paso to Los Angeles, called the "Californian".

Q. Give me the consist.

A. Which train carries a chair car, diner, one 14-section tourist sleeping car, Chicago to Los Angeles; one 16-section tourist sleeping car St. Louis to Los Angeles; one 12-section drawing-room sleeper Chicago to Los Angeles; one 10-section observation car St. Louis to Los Angeles. The cars from St. Louis run over the Missouri Pacific Road to Kansas City, thence via Rock Island.

(A recess was here taken until 2 o'clock p. m., at which time the witness was recalled and the direct examination resumed by Mr. Dunne.)

7751 Q. I was going to ask you for the schedule westbound and eastbound of that train, if you can give it.

A. Westbound this train leaves Kansas City at 10 p. m.

Mr. SEVERANCE. What is the number of that train?

WITNESS. On the Southern Pacific Road it is number 1 and 2 between El Paso and Los Angeles.

Q. Eastbound it would be No. 2 Californian, wouldn't it?

A. Yes. I will start eastbound if you like.

Q. If you please.

A. Eastbound this train leaves Los Angeles at 3 o'clock in the afternoon, and is known as No. 2, and styled "Californian". Eastbound, Monday at 3 o'clock p. m.; arrive El Paso Tuesday, 5 p. m., (Pacific time); leave El Paso 6.30 p. m. (mountain time); arrive at Kansas City Thursday, 2.45 a. m.; arrive St. Louis Thursday night, 7.05; arrive Chicago Thursday evening, 5 o'clock. The apparent dead time is at Kansas City, from 2.45 a. m. Thursday morning; they lie there until the morning connections eastbound for St. Louis on the Missouri Pacific, and take the 8 or 9 o'clock train out of Kansas City in the morning, with that through car, and get into St. Louis at 7.05 p. m.

Mr. SEVERANCE. Does the train continue on to Chicago?

WITNESS. The train continues on to Chicago. Westbound this train leaves Kansas City Monday, at 10 p. m., arriving at El Paso Wednesday, at 5.50 a. m. (mountain time); leaves El Paso Wednesday at 5.20 a. m. (Pacific time); arriving at Los Angeles Thursday, 7.35 a. m. The Chicago connection of this train westbound is a slower train and a very heavy pick-up train on the Rock Island Road, coming through from Chicago, through Kansas,

7752 performing all the local service, having through cars to be delivered to the Southern Pacific at El Paso, getting in there in the evening, and those through cars lie over there until the arrival of the main train from Kansas City, and all going on together the next morning, leaving El Paso, as I have stated, on Wednesday, at 5.20 a. m. In other words, while this is a quick limited train from Kansas City, it is a pick-up train from Chicago through to El Paso via the Rock Island and the El Paso & Southwestern, consolidating the two trains at El Paso, and forming one train from El Paso west.

Q. Have you the schedule for a train running between El Paso and Los Angeles?

A. Yes.

Q. What is that train?

A. The Southern Pacific lately put on another train, or, rather arranged this service. Another train leaving El Paso say Monday at 9.55 P. M., arriving at Los Angeles Wednesday morning at 6.30; leaving Los Angeles say Monday night at 8 o'clock, and arriving at

El Paso at 3 o'clock Wednesday morning—apparently an unseasonable hour for arrival at El Paso.

Mr. SEVERANCE. The El Paso train leaves Monday morning at 9.55, going west?

WITNESS. Yes, leaves El Paso say Monday morning at 9.55 going west.

Mr. SEVERANCE. And arrives at Los Angeles 6.30 A. M. Wednesday?

WITNESS. Yes. In the reverse direction, it leaves Los Angeles Monday night at 8 o'clock, and arrives at El Paso Wednesday morning at 3 o'clock. The reason for that inconvenient hour is that it serves thoroughly the needs of the line between El Paso and
7753 Los Angeles. If they ran it into El Paso say at 7.30 or 8 the next morning, it would be so very slow that the freight trains might be inconvenienced by it, and there is no particular inconvenience to the passengers at that end of the route because it has chair cars and tourist sleepers, and they can stay in the car on arrival at El Paso until the next morning. I will give you the equipment of that train. It carries diner, chair car, tourist sleeper, westbound El Paso to Los Angeles, and standard sleeper from the Texas & Pacific, operating between St. Louis and Los Angeles. That standard sleeper, as they term it, is a broiler café car, which they use on their line in lieu of a diner.

Mr. SEVERANCE. What is the number of that last train?

WITNESS. It takes the number of 7 and 8.

Q. Has there been a recent change in the time of the Golden State Limited?

A. Yes. The Golden State Limited, on January 17th, was expedited; the time was shortened.

Q. Will you explain that, please?

A. It leaves Chicago at the same hour as formerly and gets into Los Angeles at 3.30 in the afternoon, as against 7 P. M. up to the time of its being quickened. Do you want the reason?

Q. Yes; explain that, please.

A. May I have all the time I want to explain it? It is a complex situation.

Q. If it does not take too long.

A. I do not mean to take too long, but it will necessitate some explanation, as it carries with it other trains and so forth.

Q. We will allow you to be the judge of that, Mr. McCormick.

A. The quadrennial weighing of mails begins about this season, and the Golden State Limited has carried the mail out of Kansas City in the morning to Los Angeles ever since the discon-
7754 tinuance of the daily service of the Santa Fe train before the previous quadrennial weighing, and that mail which the Golden State Limited carries is the big heavy mail out of New York that the Pennsylvania Railroad runs a special train for from New York to St. Louis and the Missouri Pacific from St. Louis to Kansas

City, arriving at Kansas City just previous to the departure of our Golden State Limited, which leaves Chicago say at 8 o'clock at night.

Mr. SEVERANCE. What road takes it to Kansas City?

WITNESS. The Missouri Pacific, and the Pennsylvania from New York to St. Louis. That mail previously got into Los Angeles at 7 P. M.—too late for delivery, and the post-office department wanted to expedite the mail to Los Angeles, say, a day. That could be done if we would get our Golden State Limited into Los Angeles in the afternoon in time for an afternoon delivery, they working up the mail before it got into Los Angeles. And we did that. Now, the Santa Fe California Limited carries another large mail, and they expedited their California Limited in order to get in to Los Angeles at 3 o'clock in the afternoon. By both of those lines the mail now arrives at Los Angeles at 3 o'clock by the Santa Fe and at 3.30 by the Southern Pacific, working it up before it gets into Los Angeles, and delivery is immediately made, and mail may go back east at 8 o'clock that night. That whole scheme started by an expedition of the mails between the Twin Cities and Seattle by the Great Northern Road. The mail formerly handled between Chicago and the Twin Cities and the mail formerly handled between Chicago and Seattle—

7755 say, for the sake of illustration, that it would leave Chicago 10 o'clock Monday night; it would arrive at Seattle Thursday evening at 7 o'clock. The Great Northern put on a train from the Twin Cities that took that mail into Seattle Thursday morning at 5.45 a. m. Leaving Chicago at the same moment the same evening, the mail to Portland, which went by Omaha and the Union Pacific Road and the Oregon Short Line and O. R. & N., arrived in Portland formerly in the evening; it was then expedited into Portland, arriving there at 8 o'clock in the morning, and that Portland mail was carried out of Omaha, westbound, in Union Pacific big transcontinental mail train No. 9, which left Omaha say at 9 o'clock in the morning or thereabouts, and arrived in San Francisco at 1.08 p. m. So that it left this situation: The mail leaving Chicago at 8 o'clock at night and, for illustration, arriving at Seattle at 5.45 in the morning, arrived at Portland at 8 o'clock in the morning, arrived at San Francisco at 1.08 in the afternoon, arrived in Los Angeles at 6 p. m. over the Santa Fe, and 7 p. m. over the Golden State Limited. Then came on this stress of weather, trains being late, and so forth. 8 o'clock arrival at Portland, Oregon, if the train were 2 or 3 hours late, may be the man would be at his club or lunch before he got his mail. The time was fairly made to San Francisco, 1.08 in the afternoon, and well made to Los Angeles; but no delivery. So we arranged to split the big Overland Mail by the Union Pacific, put on additional service and run the Portland mail separate to Green River and on to Portland, and arrive at Portland at 7 o'clock in the morning. That enabled us to make better time to San Francisco because we had a lighter train Omaha

7756 to Green River. And then we arranged to run from Omaha to San Francisco and arrive at San Francisco at 10 o'clock in the morning, the mail being worked up in that way.

Mr. SEVERANCE. What time did that leave Omaha?

WITNESS. About 9 or 9.15. The leaving time was not changed, because its leaving time is dependent upon the receipt of the mail from the east. Now that left a peculiar situation. Leaving Chicago the same hour, the same night, and so forth, the man got his mail at 5.45 at Seattle, 7 o'clock at Portland, and 10 o'clock at San Francisco. That was not fair to Los Angeles. The man at Los Angeles did not care particularly if he got his mail at 10 or 11, but he wanted it some time during the day when he could get his answer back. So we arranged with the Department to get into Los Angeles at 3.30 in the afternoon. And that was the reason for the expedition of the Golden State Limited. There are some other details which it might be necessary to explain.

Q. Please explain these.

A. With this mail arriving at San Francisco at 10 o'clock in the morning, if the mail were expedited from the east into Los Angeles, arriving at Los Angeles at 3.30 in the afternoon, a great portion of the mail which the Union Pacific and Southern Pacific had been handling by Omaha might go via Los Angeles, arriving at Los Angeles at 3.30 in the afternoon, immediately take the "Owl" and go to San Francisco at 8 o'clock in the morning, beating the mail via Omaha at 10 o'clock, and we would lose the haul.

Mr. SEVERANCE. Who would lose the haul?

WITNESS. The Southern Pacific, and then Union Pacific for a
7757 greater distance. The carrying lines, in other words, would lose the haul, and just before the quadrennial weighing that is pretty serious, because the mail is weighed only for 105 days, and then you carry it for four years on that basis.

Mr. SEVERANCE. Take this new schedule Omaha to San Francisco, 9 a. m. out of Omaha and 10 a. m. into San Francisco. Is that the second day after?

WITNESS. Oh, no; that would be just the expedition of the present train from 1.08 noon to 10 o'clock in the morning.

Mr. SEVERANCE. Suppose you leave Omaha at 10 o'clock in the morning, what time do you reach San Francisco—Wednesday or Thursday?

WITNESS. We are there at Wednesday at 1.08 in the afternoon.

Mr. SEVERANCE. Now 10?

WITNESS. Now 10 in the morning.

Mr. SEVERANCE. That is 2 days and 1 hour?

WITNESS. Yes.

Q. You spoke about the "Owl" meeting the 10 o'clock mail.

A. With this mail into Los Angeles at 3.30 in the afternoon and catching the "Owl", the carrying lines would lose the haul of that mail via Omaha, and so forth, and they could not afford to get to San Francisco at 10 o'clock in the morning. That question was gone over very carefully with the post office department, and they do not make agreements with railroads very readily to lengthen things out. But it was shown to the post office department that all the light letter

mail, circulars, special delivery, and stuff like that, would have this additional expedition to San Francisco, 8 o'clock in the morning by the "Owl", and that the big, heavy magazines, newspapers and
7758 all that, for which they receive a cent a pound for transportation, would still get into San Francisco at 10 o'clock in the morning, and if that mail were sent around by Los Angeles the Government would have to pay on that mail the rate of 1 cent—I mean would have to carry that mail for which they got 1 cent per pound 412 miles, say, farther for the sake of expediting it 2 hours, and they leave that mail on its old route. So that all I have been saying means that mail was expedited, or will be, to San Francisco and to Portland and all that, now the weighing is on, and it will be carried during that weighing, and however it is carried during that 105 days it will continue for four years.

Mr. SEVERANCE. I am a little confused about the days of the week of this explanation. Let me ask you one or two questions to see if I can straighten it out in my mind. You have it clear, of course. Take the expedited service to Los Angeles. What time does that mail leave Chicago? Take Monday now.

WITNESS. The mail that I speak of does not go via Chicago at all on the Golden State Limited.

Mr. SEVERANCE. This is the New York mail you are talking about?

WITNESS. Yes; the New York mail goes via the Pennsylvania to St. Louis and from St. Louis to Kansas City via the Missouri Pacific mail train, and is delivered at Kansas City to our Golden State.

Mr. SEVERANCE. How does the mail that the Union Pacific and Southern Pacific take by Ogden reach their lines at Omaha?

WITNESS. By the New York Central and Lake Shore to Chicago, is there collected by the Burlington and the Northwestern, arrives in Omaha in the morning, and leaves on the big Overland Mail at 9 o'clock.

7759 Mr. SEVERANCE. As I understand your explanation, it is this: that in the case of New York mail moving to the coast by St. Louis, Kansas City and the Golden State, it would arrive in Los Angeles at 3.30 o'clock in the afternoon of a certain day, we will say any day, whatever the day is.

WITNESS. Any day.

Mr. SEVERANCE. Mail leaving New York for San Francisco by the other route, the Central route we will call it, New York Central to Chicago, the Union Pacific and Southern Pacific, would not arrive in San Francisco until the morning after or the day after this would arrive in Los Angeles?

WITNESS. Yes.

Mr. SEVERANCE. And therefore if you had not expedited your train to San Francisco, making it 10 o'clock in the morning, the mail could have continued on up to San Francisco from Los Angeles, coming by that route, arriving at 8 o'clock in the morning by the "Owl", and been there 5 hours and 8 minutes ahead of the mail coming by the Overland?

WITNESS. Perfectly correct.

Mr. SEVERANCE. That was the reason for shortening it to 10 a. m.

Q. Have you any memoranda as to the expenditures in giving publicity to the Sunset route service prior to 1901?

A. Yes, I have. I have it in 1894. I have segregated it. In the season 1894 there was spent to advertise westbound service about $25,000.

Q. I particularly direct your attention to the year 1900.

A. That increased in 1900 to about $31,000.

7760 Q. Can you give us the figures for the subsequent year?

A. 1901, $41,000; 1902, $40,000; 1903, $83,000; 1905, $70,000; 1906, $95,000; 1907, on account of the panicky conditions, etc., it dropped down a little—to $54,000; 1908, was a little better, $67,000, and 1909, as near as I can get it, about $92,000.

Q. Take the eastbound service. Have you any figures for 1900 or 1901?

A. To advertise the service eastbound there was expended in the season of 1901–2 about $5,000.

Q. Have you any data for the expenditure for the more recent years? Go back as far as 1905.

A. Since 1905 there has been spent, eastbound, about $10,000 annually.

Q. Take the fiscal year 1909–10, in respect to advertising, publicity and development work for the Sunset route: Have you the figures as to the amount appropriated?

A. For all advertising, publicity and development work for the territory served by the Sunset route for the fiscal year 1909–10, about $225,000 appropriated.

Q. I would like to have some information from you, if you can give it, in reference to the tourist car service on the Washington-Sunset route. Will you give us the route itself, to begin with?

A. The route is, say, by the Pennsylvania road, New York to Washington; Southern Railway, Washington to Atlanta; Atlanta & West Point, Atlanta to Montgomery; Louisville & Nashville, Montgomery to New Orleans; Sunset route, New Orleans to San Francisco.

Q. When was that line established?

A. It was established in 1896.

7761 Q. What was the tourist sleeping car equipment per week at that time?

A. We had one car per week.

Q. Has the service been increased in respect to tourist sleeping cars since that date?

A. We added a second car in November, 1898.

Mr. SEVERANCE. Did that go to Los Angeles or San Francisco?

WITNESS. San Francisco.

Q. Go ahead now.

A. We added a second car in November, 1898; a third car in 1899, and a fourth car, per week, in 1909. Those cars run from Washing-

ton and are served by the lines from Boston and New York, taking the service at Washington. The car starts at Washington.

Q. Where does the traffic originate principally, westbound? Where do you get your people?

A. New York and New York territory and up in New England. A great deal of the traffic is composed of people who have permanent homes in California, and the balance is the sightseer and tourist, the cars being personally conducted, and the rate being lower (as I have previously explained) than for the standard car.

Q. You said that a fourth tourist sleeping car had been put on in 1909?

A. In 1909.

Q. Do you expect to enlarge that equipment?

A. We must. We have done it gradually, but as far as we could. Otherwise it is a seasonal car. We want a car every day, and now we are contemplating putting on a fifth car, and when we can fill that we will put on a sixth car, ultimately hoping to have a car a day.

Q. Have you any comparative figures for the westbound and eastbound passengers on that route, say for 1897 and again for
7762 1909?

A. Yes. Westbound for 1897, 981 passengers; westbound for 1909, 1,835 passengers. Eastbound for 1897, 915 passengers; eastbound for 1909, 1,508 passengers.

Q. Have you any figures for the passenger traffic via the New Orleans steamer line?

A. I can give you the passengers for 1906, 1907, 1908.

Q. Have you got it classified?

A. Yes.

Q. Will you please let us have that?

A. Statement of passenger traffic via New Orleans steamer line, year 1906.

Mr. SEVERANCE. Westbound?

WITNESS. Yes. I will give it to you segregated. Local to New Orleans, 2,728; to Texas, 527; to California, 1,403—total 4,658. Year 1907, New Orleans local, 3,835; Texas, 1,018; California, 1,988—total 6,841. Year 1908, New Orleans local, 4,646; Texas, 2,055; California, 1,637—total 8,338.

Q. Have you any later years? I mean for the New Orleans route—passengers?

A. No, I haven't any compilations of it.

Q. It is accessible, though?

A. I could give it to you up to date if you want it.

Q. I will ask you if you have a memorandum from the year 1901 to the year 1910 showing the comparison of the number of passengers via Ogden to and from the Union Pacific and the number of passengers via El Paso to and from G. H. & S. A.?

A. I have.

Q. The G. H. & S. A. would be the Sunset Central line, would it not?

A. Yes.

Mr. SEVERANCE. That would be the line leading towards New Orleans?

Mr. DUNNE. Yes.

7763 Q. As Mr. Severance says, it is the line leading towards New Orleans?

A. Yes. This includes G. H. & S. A., and includes it by El Paso too.

Mr. SEVERANCE. Does it include the traffic interchanged with the Rock Island at El Paso?

WITNESS. I will give you the heading of the statement and you will understand it. The statement I am going to read to you now is headed this way: "Comparison of number of passengers via Ogden to and from the Union Pacific"—not the Denver & Rio Grande, just the Union Pacific—"with those by El Paso to and from the G. H. & S. A."—and no other connection.

Q. Not including the Rock Island?

A. Oh, no.

Q. Will you give those figures, please, as far as you have them?

A. 1901, 5 months only, by Ogden-Union Pacific, 24,600; under the column headed "G. H. & S. A." 14,863. 1902, under the column headed "Union Pacific"——

Mr. SEVERANCE. Is that for the entire year, or the 5 months?

WITNESS. Just for 5 months.

Mr. SEVERANCE. Just the same?

WITNESS. No, the balance is the year.

Mr. SEVERANCE. I mean that 14 thousand represents the same period of time as the 24,600.

WITNESS. Yes, just the 5 months.

Mr. SEVERANCE. Are these calendar years or fiscal years?

Q. Why do you happen to take 5 months only for 1901? Do you know why that was? I think it appears on the face of the memorandum 5 months only. Was that due to the condition of the records—that they were not available?

A. That was about all I could get.

7764 Q. I think that explanation should be made.

A. The only thing I did was this—and may I make this explanation now?

Q. Yes.

A. The data I have compiled both for time-card and earnings and statistics were not made for fun; it was done with the desire to afford to Mr. Severance just as much information as to you or to any one else. It was done to make a good, clean expose of the situation, and when I started in to get 1901 or any other year—and I hadn't much time to get it—they said to me, "I can only give it to you for 2 or 3 months." I said "give it to me for what you can." Now that is all I could get for 1901.

Q. That is what I wanted to know, because it is not in keeping with the other years, which you seem to give for the full 12 months.

A. Well, it is the best I could get. I have never seen a reason for their giving me 5 months, and to save my soul I could not tell you the 5 months they gave me.

The SPECIAL EXAMINER. Mr. Severance asked you a question that you did not answer—whether it was the fiscal year or the calendar year.

WITNESS. The calendar year.

Mr. SEVERANCE. The calendar year in each case?

WITNESS. They should be the calendar year. Shall I verify that—as to their being the calendar year?

Mr. DUNNE. I should infer that, because it says January 1910.

WITNESS. I am quite sure of it, because I asked for it that way. 1901, 5 months only, 24,600 under the heading Union Pacific; 14,863 under the heading G. H. & S. A. 1902, 62,737 under Union Pacific; 37,261 under the heading G. H. & S. A. 1903, Union
7765 Pacific 82,128; G. H. & S. A. 44,950.

Q. Have you any figures for 1904, 1905, 1906?

A. Unfortunately I could not obtain them for 1904, 1905, or 1906. But if they can be obtained later, and you want them, I will have them put in this record, but I am afraid they cannot be obtained.

Mr. SEVERANCE. I understand Mr. Horsburgh says they cannot be obtained.

Mr. HORSBURGH. They cannot be obtained.

Mr. DUNNE. Mr. Horsburgh says the records for 1904, 1905 and 1906 cannot be obtained, and the earlier records were gotten from the Omaha office.

Mr. SEVERANCE. The earlier records as to the Union Pacific?

Mr. DUNNE. Yes.

Mr. SEVERANCE. Not as to the El Paso route.

WITNESS. In explanation of my remark, if you will permit me, I will say that if they can be obtained later I will put them in, because there may be somebody in the office of the steamship line in New York or in the Omaha office or of the general passenger agents, or in Mr. Poston's office, or some place, who can dig up a letter, and if so we will fill them in.

Mr. DUNNE. It just occurred to me, looking at the statement, that while the records might not be obtainable for the Union Pacific for 1904, 1905 and 1906, they still might be obtainable for the G. H. & S. A.

WITNESS. If they are I will fill them in.

Q. Now, 1907?

A. 1907, under Union Pacific, 114,520; G. H. & S. A., 73,732. 1908, Union Pacific, 90,297; G. H. & S. A., 60,786.

7766 Mr. SEVERANCE. That falling off was on account of the panic?

WITNESS. Yes. 1909, Union Pacific 89,499; G. H. & S. A. 70,429. 1910, for the month of January only, Union Pacific 6,196, G. H. & S. A., 7,817.

Q. The Sunset route passes through New Mexico and Arizona as well as California, does it not?

A. Yes.

Q. Now, you used the words "development work" in your testimony. Has there been any development work done in respect to the passenger traffic in New Mexico, Arizona, and California since 1901?

A. A great deal.

Q. Can you state briefly in what directions?

A. Reclamation work done by the United States Government, Roosevelt Dam and Laguna Dam above Yuma—the start and progress of it.

Q. What relation has that to the development of passenger traffic?

A. Laborers going to work on it, men going to view the construction, men going to sell all sorts of commodities to the contractors, and so forth; the building up of that important territory; horses, men, mules, sustenance, etc., and the general development in that territory.

Q. You used the words "development work" in connection with advertising, publicity?

A. Yes.

Q. That $225,000 had been appropriated.

A. It is rather a general term used in advertising.

Q. I want to bring out the significance of it.

A. I think I might state it in this way: in the advertising we would use it if it was the development even of a negative up to the development of a territory. It is anything that pertains to
7767 the upbuilding of the community, the increase in the passenger business, and so forth and so on. But in this particular case it was the development of a territory, in other words making productive a territory that before was absolutely barren.

Q. Where is the Imperial Valley situated?

A. In southern California, between Los Angeles and the state line.

Q. In what way, addressing ourselves now to the development of passenger traffic, are such improvements as the United States reclamation work and the development of the Imperial Valley related to passenger traffic, and to what you call development work? What do you do? How do you spend money to relate those things to passenger traffic?

A. By every means that the mind of the most alert men in the United States to-day can conceive of.

Q. That is a little general.

A. Shall I give them to you in detail?

Q. Within reasonable limits.

A. Let us start with the man who saw something in the Imperial Valley. There had been thousands upon thousands of men cross there on horseback and wagon and train, and so forth, and one day

a fellow went who saw more than any other man. He believed it could be developed. How? By waste water. From where? The river. How will you get it over on these lands? Took borings, found that silt from the river had gone into an old sea, and he got down as far as 700 feet and found that it was the same kind of silt that was on top, and then they found the silt had filled in
7768 that old sea. Then he started a company for the purpose of bringing the water over on to this very rich soil, and finally had to take it around through Mexico to get it up there; and when they got the water on that land, they found it was more productive than any other land, and from the observation of that man who saw more than any other man (and probably a chemist, and so forth) came the Imperial Valley, which contributes so enormously to-day to the revenue of the Southern Pacific, to the revenue of the State of California, and to the home-making of hundreds of people.

Q. I want to develop just how the Roosevelt Dam, for instance, ministered to the Southern Pacific passenger traffic or the Imperial Valley development. Do you give publicity to those things? What efforts do you make in that direction, to focus public attention upon them?

A. Enormously—by means of photographs, newspaper publication descriptive of the great work, and lecturers hired, who have moving pictures of the teamwork, the piling up of the rock; what the Government says will be done there in the future, or what will be possible when it is accomplished; the fact that from 200 to 300 thousand acres of barren land will be made productive; the influx of the men who want to get there and get hold of a piece of it before the price gets too high. All this gives to the G. H. & S. A. road some revenue.

7769 Q. Have you done those things? Have you pursued that policy in respect to this southern route?

A. To the extent that nearly a quarter of a million dollars, or a good portion of it, has been for this past season set aside for just such work.

Q. Is that what you mean by development work?

A. That is one kind of development work. Now, there is another development work. The waters rose and covered that territory down there, and the whole United States Government said it could not be stopped. The Southern Pacific had a man who said it could be stopped, and he stopped it. If he had not stopped it, there would not have been anything left there, and development would have ceased in that territory. First we started it and built it up, then the floods came, and then we started it again.

Q. What I had more particularly in mind was that you direct public attention to these things in order to bring people to them.

A. Yes.

Q. Have you any memoranda touching the time-cards effective November 10, 1907 and the reduction in train mileage, that was spoken of here in the record, at the time of and shortly after the panic?

A. Yes. I had a copy of a telegram from assistant general manager Scott. Naturally, when the slump came, everybody was asked to reduce. Assistant General Manager Scott of the Southern Pacific wired Mr. Kruttschnitt, March 28, 1908, that with the time-cards effective November 10, 1907, the Southern Pacific saved 63,321 miles of train mileage.

Q. Have you the detail of that?

A. December 8, 1907, 9,276 miles; December 29, 1907, 88 miles; January 5, 1908, 7,818 miles; February 9, 1908, 20,058 miles; March 22, 1908, 13,396 miles.

7770 Q. Will you explain briefly what that reduction of train mileage means as related to the pessenger service, in a plain way, so that a layman can understand it?

A. It practically covers passenger train service, but it does not include a great deal of train mileage saved on freight trains, etc., running them alternate days instead of daily. And the figures themselves mean that time-cards had to be so readjusted to take care of the necessities of the travel, with regard to the due economy made necessary by the serious times; and everywhere where mileage could be saved, it was saved. Where two sections of trains had been run before, they were doubled up, and one section was run, even though it took a considerably longer time to get a train over the road. Where branch lines had service galore (because service encourages travel) it was cut down to the necessities of the people, and maybe one train made to do what two trains did before. In fact, aside from some of the trains which you have seen by statistics, or will later on (that have not been changed for a long time) all mileage put on before with the hope of building up future traffic was taken down and the mileage was cut down to the serviceable traffic—simply the mileage left that met the necessities of the people.

Mr. SEVERANCE. This refers to the passenger business?

WITNESS. Yes, this refers to the passenger business. Now, those figures show that west of El Paso a large reduction in mileage was made, and therefore the cancellation of Nos. 7 and 8 between El Paso and San Antonio was not to be wondered at.

Q. You have spoken of this reduction in train mileage in connection with the serious times. You refer to the panic of

7771 1907?

A. Yes—brought about by that.

Q. Have you any memoranda on that subject with reference to any particular trains on the northern route?

A. Yes. Train No. 6, San Francisco to Ogden, formerly ran in two sections. It was reduced to one section, and we did the best we could with it. Train No. 16, San Francisco to Portland, two sections, was reduced to one section, and trains 11 and 12, San Francisco to Portland, 772 miles in each direction, were discontinued entirely.

Q. Has there been any resumption in respect to that train?

A. Yes. The other service becoming crowded, and there being a great and growing need for an increased and better service there, and

the people calling attention to the fact that there was a train like the Owl running from San Francisco to Los Angeles (a commercial train) and asking "What is the matter with the business between San Francisco and Portland, and San Francisco and Tacoma and Seattle and this northern territory—why can't we have a train?"—out of that grew the 27-hour train between San Francisco and Portland, which has lately been extended to Seattle.

Q. When was that train put on, do you remember?

A. I could not give you the date.

Mr. SEVERANCE. The middle of last summer?

WITNESS. Yes.

Q. These gentlemen tell me it was June, 1909. Is that about it?

A. About it. We will get you the date. I could not give it to you definitely from memory.

7772 Q. That would be approximately correct?

A. I think so. Yes, it was in June. I have it here,—train 11 and 12, San Francisco to Portland, discontinued; 27-hour train put on, June, 1909. I overlooked that. I overlooked it because it said in pencil "Resumed," and I knew it had not been resumed, so I didn't read it.

Q. You say you knew it had not been resumed?

A. Yes.

Q. I understood you to say it was resumed, in June, 1909?

A. No. It never was. That is a new train.

Q. You are quite right.

A. From New Orleans the old second-class train, so-called, did not continue to run.

Q. My question was in error.

Mr. SEVERANCE. I thought someone testified that there are three trains a day now.

WITNESS. There are. I don't count 11 and 12 as ever being resumed; it was a train of entirely different character—the third train put on. The new train was put on as a commercial proposition.

Mr. SEVERANCE. Was 11 and 12 the second or third train?

WITNESS. That was the old third train, but it was taken off.

Mr. SEVERANCE. Then you had three trains before?

WITNESS. Yes. For a distance there was a gap. I can not quite recollect the card in there, but my recollection is that there were two daily trains, and that a third train ran up part of the way and then there was a gap as there is between San Antonio and El Paso, and another train from Ashland into Portland. But I would have to consult the card to be certain about that.

Q. Is this new train an unbroken continuous train?

A. Yes, of the highest class.

7773 Q. What was the Golden State Special on the Union Pacific? Do you know that train?

A. That is often referred to as the first of all the high-grade trains. I rather think that is a misnomer. But the Union Pacific inaugurated the Golden Gate Special December 5, 1888.

Q. Have you any information before you as to when it left Council Bluffs and San Francisco?

A. It left Council Bluffs every Wednesday, and left San Francisco every Saturday, until May 14, 1889.

Q. What was its consist?

A. A combination of baggage car, library-buffet car, dining car, two double drawing room Pullman palace sleepers, and one 8-section observation sleeping car. It was steam-heated, and electric-lighted (so far as you could say they could do it in those days—not very satisfactorily)—and carried dining car all the way through.

Q. Have you the schedule before you?

A. It left Council Bluffs at 7:45 in the morning; arrived in San Francisco at 9:45 P. M.; left San Francisco at 3 P. M.; arrived at Council Bluffs 9 o'clock in the morning. It was a 64-hour train east and westbound. Then, westbound, when the change came in March, the train left Council Bluffs at 9:45 in the morning and arrived at San Francisco at 7:45 in the evening.

Q. That would make about 60 hours westbound?

A. 60 hours instead of 64. Made a little better time. Eastbound the time was lengthened out. It left San Francisco at 8 P. M. and arrived at Council Bluffs at 3:45 P. M. The time was 65 hours and 45 minutes, while westbound it was 60 hours.

Mr. SEVERANCE. 60:45?

WITNESS. 60:45.

7774 Mr. SEVERANCE. You don't mean it was lengthened out to what it was before, but it was longer than the westbound?

WITNESS. Yes, at that time: Showing that as far back as December 5, 1888, the Union Pacific road did pretty nearly as well as it does to-day, or ever has done, with the Overland Limited; and showing clearly what could be done in those days over a railroad where there was no density of traffic and things could move along.

Q. Have you any memoranda in respect to limited trains in the east and their equipment?

A. Yes. Shall I read it right along?

Q. If you have the dates before you.

A. I have. I prepared it because it was interesting. About 25 years ago the Lake Shore had a 25-hour train called "The Limited," a little later reduced to 24 hours and called "New York-Chicago Limited," and a little later "Lake Shore Limited;" 24-hour schedule.

Q. From New York to Chicago?

A. Yes. May 18, 1890 (20 years ago) the "North Shore Limited" was put on by the Michigan Central, making the distance in 24 hours. It made its last trip sometime in 1898. Then came the "Southwestern Limited," inaugurated October 6, 1899, and operated on a schedule of 30 hours and three-quarters from St. Louis to New York. Then I have "Michigan Central 'Wolverine,' inaugurated May 14, 1905."

Mr. SEVERANCE. What was the "Wolverine" time?

WITNESS. That was a 24-hour train, too. During the World's Fair a 20-hour train, called "Exposition Flyer," was run over the
7775 Lake Shore road, as a starter, but the "20th Century" inaugurated on a 20-hour schedule June 15, 1902—I think I will take that up later. Anyway, during the World's Fair, in 1893, a 20-hour train was started, called the "Exposition Flyer," over the Lake Shore and New York Central.

Q. Can't you give us those data about the "20th Century?"

A. The "20th Century" was inaugurated on a 20-hour schedule on June 15, 1902, and on an 18-hour schedule June 18, 1905.

Q. Something was said here the other day about the use of electric lighting on the eastern trains. Have you any data as to that?

A. Yes. The "Florida Special" was the first attempt at electric lighting, and it was in 1887, by the Florida Coast Line, started by the Pennsylvania Company. These preliminary electric lightings were axle devices and were comparatively failures. In 1897 the first successful lighting that we have been able to learn about from time to time was used on the Lake Shore Limited.

Q. That was electric lighting?

A. That was electric lighting.

Mr. SEVERANCE. Was that earlier than the "Pioneer Limited" between Chicago and St. Paul?

WITNESS. I haven't that, because the "Pioneer Limited" was the most marvelous lighting, and was for years. No road ever attempted any such thing. They carried a car next to the engine.

Mr. SEVERANCE. Yes, that is right, they did.

WITNESS. And they determined to make electric light, and they did make light.

Mr. SEVERANCE. Beautiful light.

WITNESS. They made light. But it was a most enormously
7776 expensive thing when it was first started. No one ever attempted any such thing.

Mr. SEVERANCE. Well, that was earlier than 1897?

WITNESS. I haven't those figures.

Mr. SEVERANCE. Mr. Fee would know. Wasn't it earlier than 1897 that the "Pioneer Limited" was electric-lighted?

Mr. FEE. I should say that the St. Paul put the "Pioneer Limited" on about 1897 or 1898. That is my recollection.

WITNESS. We exhibited it on the Big Four road (the road I was with), and, if you remember, we wrecked it at Springfield, Ohio.

Mr. SEVERANCE. I don't remember it.

WITNESS. Well, we did.

Mr. SEVERANCE. I am glad to know it, but I didn't know it.

WITNESS. Everybody who had anything to do with it will remember it. It was the finest looking thing that ever happened until a ton of coal came out carelessly from the siding——

Mr. SEVERANCE. When was that?

WITNESS. I can't give you the date, but I will get the date and incorporate it here, if you would like to have it.

Mr. SEVERANCE. I don't care anything about it; only you said the first successful attempt was in 1897, and it seems to me it was earlier than that; I may be wrong.

WITNESS. I had reference to either the axle device or baggage car device. But the St. Paul did successfully light their trains.

Mr. SEVERANCE. Where was this, that you speak of in 1897?

WITNESS. In 1897 the Pennsylvania ran the "Florida Special" down the Atlantic Coast Line, in connection with the lines leading into Florida—the Savannah, Florida & Western, etc.

7777

Q. What is the present time by the Lake Shore Limited?

A. It is about a 24-hour train; a little short of it.

Mr. SEVERANCE. 23, isn't it?

WITNESS. Yes, 23.

Q. 23½, isn't it?

A. 5.30 to 5 o'clock, I think.

Mr. SEVERANCE. 23½.

Q. What is the Southwestern Limited, did you mention that?

A. The Southwestern Limited is the New York Central, Lake Shore and Big Four train that operates between New York and St. Louis in both directions.

Q. What is the approximate time of that train?

A. That train when it was put on, ran in about 30 hours, I think; and it has lately been cut down and is now running to St. Louis in about 24 hours.

Q. Some reference was made here the other day to the Montezuma Special, I think it was said that the passenger testimony would explain that a little more fully. Will you state what that train was?

A. That was a train that was put on in 1889. I had to do with it because we hauled it from Chicago to Louisville over the Monon—with which I was connected, and then south over the Louisville & Nashville, delivering it to New Orleans to the line operating from there. The train operated between New Orleans and the city of Mexico, commencing from New Orleans February 7, 1889. Then, in order to attempt to do better with it, they carried it farther north, and, on March 4, 1889, they ran it from Cincinnati to the city of Mexico. It was discontinued April 30, 1889.

7778

Q. How long did it run between New Orleans and the city of Mexico?

A. From November 10, 1889, to February 28, 1890.

Q. Was it then discontinued finally?

A. Yes.

Q. What was its consist?

A. It was a high-grade train and a light train, consisting of a straight sleeping car, a drawing room car, a combined baggage and library car, and a dining car; and the route was the Southern Pacific, Mexican International and the Mexican Central.

Q. Continuing with these limited trains, have you any memorandum as to the Santa Fe's California Limited?

A. It was inaugurated in November, 1895, semi-weekly.

Q. Was that Chicago–Los Angeles?

A. Yes, Chicago–Los Angeles. It left Chicago at 6 p. m. The schedule was about 68 hours from Chicago to Los Angeles. It was discontinued late in the spring of 1896. They had similar service in 1896 and 1897.

Q. That was a season train, wasn't it?

A. A seasonal train. For the season of 1897–98 it was inaugurated on October 20th.

Q. Have you any detail as to the schedule?

A. Yes. It left Chicago at 6 p. m. Wednesdays and Saturdays; arrived Los Angeles 5.50 p. m. Saturdays and Tuesdays; left Los Angeles 8 a. m. Mondays and Tuesdays, arrived Chicago 9.43 a. m. Fridays and Mondays.

Q. Does that mean that it was a semi-weekly train?

A. Yes.

Mr. SEVERANCE. What was the time each way?

WITNESS. About 68 hours, as nearly as I can get it. On January 17, it was changed to three times a week.

Q. What was the equipment?

7779 A. At the time of the change, three sleepers, a diner, and buffet smoker. It was discontinued in the spring of 1898.

Q. Have you a schedule for the season 1898–9?

A. The season 1898–9 it left Chicago 8 p. m. Monday, Wednesday, Saturday; arrived Los Angeles 1.50 p. m. Thursday, Saturday, Tuesday. Left Los Angeles 1.20 p. m. Monday, Wednesday, Saturday; arrived Chicago 9.52 a. m. Thursday, Saturday, Tuesday. Approximately 66¼ hours.

Q. What was the equipment?

A. Three 10-section double drawing-room sleepers, one observation sleeper, one diner, one buffet smoker.

Q. Was it discontinued in the spring?

A. It was discontinued late in the spring. For the season 1899–1900: left Chicago 8 p. m. Tuesday, Wednesday, Thursday, Saturday; arrived Los Angeles 1.50 p. m. Friday, Saturday, Sunday, Tuesday. Left Los Angeles 6 p. m. Saturday, Sunday, Tuesday, Thursday; arrived Chicago 2.15 p. m. Tuesday, Wednesday, Friday, Sunday. The time was 67 hours and 50 minutes westbound and 66 hours and 15 minutes eastbound.

Q. What was the equipment?

A. Three 10-section double drawing-room sleepers, one observation sleeper, one diner, one buffet smoker. In the spring the service was reduced to semi-weekly and was maintained, I think, for the first time then throughout the summer.

Q. Did they inaugurate daily service?

A. They inaugurated daily service sometime in the season of 1901; and that was again reduced to semi-weekly service, but resumed again daily November 3, 1901.

7780 Q. Have you the schedule?

A. Left Chicago at 8 o'clock P. M., arrived Los Angeles 2:40 P. M.; left Los Angeles 6:10 P. M., arrived Chicago 2.15 P. M.

Q. What was the equipment of that train?

A. Two 10-section double drawingroom sleepers, one 10-section observation sleeper, one 6-drawingroom compartment sleeper, one diner, one buffet smoker. The equipment was changed from time to time, the six-drawingroom sleeper being replaced by a two-drawing-room 7-compartment car. It developed, on nearly all lines, that for the long travel the drawingroom compartment car was not always just the thing.

Mr. SEVERANCE. It developed what?

WITNESS. It developed on most of the lines, that the equipment in those days provided for the long journeys, by the Pullman, was not the most desirable car; and I believe nearly all have determined now that probably the best combination sleeper is a car that has, say, one drawingroom, two compartments, and a certain number of sections. That is just an aside. But on these limited trains we have to have a certain number of drawingrooms and compartments, and so forth. Those are for long journeys.

Mr. SEVERANCE. What was the time of that train? You gave the time of arrival, but you didn't give the time in hours.

WITNESS. It would be 68 hours and 40 minutes, westbound.

Mr. SEVERANCE. 66, wouldn't it?

WITNESS. It left Chicago at 8 and got there at 2:40. When it left there at 8 o'clock and got there at 1:50 it was 67 hours and 50 minutes.

7781 Mr. SEVERANCE. Oh, you mean actual running time. They gain two hours going west.

WITNESS. Yes. Coming in the other direction, it left Los Angeles at 6:10 and got to Chicago at 2:15, which would be 66 hours and 5 minutes. That train, so far as I have learned, was electric-lighted for the first time the season of 1898–9.

Q. Well, the Santa Fe had another daily train, had it not, in addition to this California Limited?

A. Yes.

Q. Do you know whether they operated another daily train?

A. Oh, yes. Do you mean latterly, or all the time?

Q. During this time.

A. Oh, yes.

Q. I assume that they had another daily train?

A. Oh, yes.

Q. Have you any data in respect to the Canadian Pacific's limited train?

A. Yes. The Canadian Pacific's limited train was styled the "Imperial Limited."

Q. What data have you?

A. It was inaugurated in June, 1899, and ran weekly.

Q. What was the equipment?

A. The equipment was, first-class sleepers, tourist sleepers, diner, coach and baggage.

Q. That was in 1899?

A. 1899.

Q. Have you the data as to any subsequent years?

A. I have 1903, for that train, additional train tri-weekly added, with same equipment. In 1904 they had two trains daily over there, and in 1909 they began to use observation cars; and this last season the "Imperial Limited" discontinued during the winter months because of the character of the country they go through, but it will be resumed about June 1st.

7782 Q. You spoke this morning of the Northern Pacific's North Coast Limited. Have you some data in respect to that train?

A. That train was inaugurated April 28, 1900; discontinued November 1, 1900. May 5, 1901, until May 22, 1909, equipment: coaches, tourist and standard sleepers and observation car. May 23, 1909, until middle of August, 1909, standard sleepers, section and drawingrooms, observation car. Middle of August, 1909, two compartments, one drawingroom, 10-sectioned sleeping car added,—The car I referred to a little while ago as a compartment car; that was run until November 30th. December 1 until February 27 the consist of the train was: coaches, tourist and standard sleeping cars, and observation car. February 27, 1910, standard sleepers, observation car, drawing room, compartment section sleepers.

Q. Is that the same sort of a car that you have been describing, with a drawing room at one end and two compartments at the other?

A. Yes.

Mr. SEVERANCE. But they have an observation car?

WITNESS. Yes.

Q. Have they a smoking car up ahead?

A. What is the question?

Mr. SEVERANCE. A buffet smoker up ahead.

WITNESS. Yes. As I understand their train, that is the only thing I object to much about it. They have a buffet smoker, unless they have changed it. They used to have, when they ran it next to the engine. I don't know how they are running it now; I think they run their car at the rear of the train now.

Mr. SEVERANCE. You didn't say anything about dining car. They always had a dining car, hadn't they?

WITNESS. Yes. Commencing May 23, 1909, the Northern

7783 Pacific commenced service from Chicago with their number 3, and eastbound part of the North Coast Limited equipment went through to Chicago. Since October 31, 1909, the service is through from Chicago to the coast, in both directions, by their train No. 3 and 4.

Q. Is there a limited on the Great Northern?

A. There is. It is called the "Great Northern Oriental Limited."

Q. When was that established?

A. November 19, 1905. All classes of equipment, including compartment and observation car.

Q. Has the service been extended to and from Chicago?

A. Commencing May 23, 1909, the service extended to and from Chicago. This train, as I understand, has tourist sleeper, first-class sleepers, etc. I haven't it just exactly.

Mr. SEVERANCE. Have you the time of the North Coast Limited from Chicago to Portland?

WITNESS. It is approximately 72 hours. It is 72 hours to Portland, and must therefore be, say, 72 hours to the coast from Chicago.

Q. With respect to the Washington Sunset Route, since 1900 what efforts, if any, have been made in the way of increasing traffic on that route?

A. Efforts have been made in every possible way; watching to secure new and good equipment; getting the best conductors to personally take care of people traveling; extensive machinery to make the people in the east acquainted with the fact that they could send a child or a woman alone to California, in the direct care of a certain responsible party, all the way through.

Q. What do you mean by "extensive machinery?"

7784 A. I was getting back to my old transportation days. I mean that we have a big office in Washington, say, and that office has its agents, and all through the season they endeavor to get to the people there the information that at any time of the year that they have persons unattended, young girls, women and children—or if a man and wife want to go and be relieved of a good portion of their responsibilities of travel, that this Washington agency and the force of employees will do the work for them.

Q. Has it anything to do with that Raymond & Whitcomb excursion business?

A. No, that is a big separate agency of another kind and character entirely. But for many years the Raymond & Whitcomb agency operated in a very unfriendly way to the Sunset Line. Their business went out by the Santa Fe and went back by the Rock Island. When I use the term "unfriendly," I mean the Sunset line did not get any of their business.

Q. The other line was the preferred line.

A. The preferred line. And later an endeavor was used, and Raymond & Whitcomb began to send some of their business by Sunset line; and finding that it was a good line and that the climatic conditions were in favor of that southern route, even during the summer months, at times they sent business to that line and helped increase its importance and earning power.

Q. You are speaking of Raymond & Whitcomb. Are you speaking of a point of time subsequent to 1900, when you speak of any direction of their business along the line of the Sunset? In other words, when was that?

A. I would have to get you the detail. I cannot remember the dates.

7785 Q. You haven't the data for that?

A. No, I haven't the data.

Q. Has any of their business gone over the Sunset since 1900?

A. Yes. I can give you the dates. I will get the dates and fill in, if you like.

Q. I don't care very much about the dates; I just had a memorandum in reference to that. Has anything been done in the way of advertising, by the Southern Pacific Company, in support of this Washington Sunset Route?

A. Yes; by means of circulars, newspaper advertising, lecturers, printed matter—pictorial and otherwise. And the success which I think we have shown in the line was brought about by such effort, in spite of the fact that the general public had the impression, for a long time, that the line traversed by the Sunset Route was a line of great resistance as regards personal comfort, etc.; hence, it was desperately hard to work business that way.

Q. Have you taken any steps since 1900 to bring the physical and climatic conditions or advantages, if any there were, to the attention of the public?

A. We have; by means of advertising, etc., and constantly improving the line. It was a dusty line at one time; then they oiled it, and it became pleasanter. It was built well in the first place, and a good deal of money has been spent on it since. Then we called the attention of people to the fact that the United States Government itself said that it was a very desirable line to use in the summer; in fact, the weather bureau statistics show that it is. Tables will prove that to you.

Q. During the last ten years have you brought those facts to the attention of the public?

A. Yes, with success.

Q. Referring to the travel by the El Paso route, has any
7786 expense been incurred in reference to a water system? I wish you would explain that.

A. By what route?

Q. The southern route; the route via El Paso, into California.

A. Oh, yes. If you will notice the time cards, the time varies from time to time from the figures I give you. It all shows work being done on the various lines over which these trains run. Over the El Paso & Southwestern in connection with the Rock Island service via El Paso, great trouble was had on account of snow in the winter and lack of water for their engines. Those people started to provide for their engines the best possible water supply that could be afforded. At an expense of over a million dollars they brought water from the mountains to the engines—water that is good for the boilers and for steam-making, etc. That increased the efficiency of that route very much indeed, so far as that link is concerned.

Q. Between what points?

A. Between the termination of the Rock Island road (Santa Rosa, say) and El Paso, over the E. P. & S. W.

Q. We have been accustomed in this case to speak of the Rock Island as a connection at El Paso. It has trackage rights over the El Paso & Southwestern?

A. No, the Rock Island runs from Chicago to Santa Rosa and then the El Paso & Southwestern (sometimes, not properly, called "El Paso & Northeastern) runs to El Paso.

Mr. SEVERANCE. I thought it was the El Paso & Northeastern.

WITNESS. Originally it was the El Paso & Northeastern. It was changed to El Paso & Southwestern.

7787 Mr. SEVERANCE. The Dodge-Phelps people own that line?

WITNESS. Yes. On inquiry not long ago, they notified us that the corporate title of the road—the proper name— was "El Paso & Southwestern."

Q. Do the Rock Island trains go through solid from Santa Rosa to El Paso?

A. Yes, it is a link in the route.

Q. There is no breach in the physical continuity of the route right up to El Paso?

A. Right up to El Paso.

Q. When were these things done in respect to water supply, and these expenditures made?

A. They just finished that, I think, this last season—in the last two years. Now, the Southern Pacific west of El Paso naturally hailed all these improvements with delight, because that line west of El Paso to California was greatly in need of more service than it could get, in connection with the line from New Orleans up to El Paso. The line up to San Antonio had been operated with double daily service profitably, but between San Antonio and El Paso they could not, and just as soon as the Rock Island got to El Paso the Southern Pacific seized on that connection and their tender of a through train with great avidity, and they have encouraged the Rock Island ever since to do the pick-up work for them and bring the business to them at El Paso. While you might say it short hauls the Sunset route, they do get 816 miles of haul from El Paso to Los Angeles, and on to San Francisco quite a little.

Q. I understand it may be feasible to put in evidence here some detail statements as to the Union Pacific time-tables and passenger schedules without calling upon you to repeat them. But I

7788 would like to ask you the question whether the passenger schedule on the Union Pacific Overland Limited train has been affected by any physical conditions of the Union Pacific and by any conditions extrinsic to the Union Pacific Road itself arising out of situations on the road of its eastern connections?

A. Yes. The Union Pacific and Southern Pacific operating from Omaha to San Francisco, say—take one train, take the Overland Limited train for instance, which leaves Chicago about 7 o'clock at night and gets into San Francisco I think at 7:28. Now for a long time the Northwestern and the Milwaukee & St. Paul Road afforded the Union Pacific Road a 12 hour schedule to Omaha, and

that is a very fast run up to Omaha. That allowed more time west of the river, and that time was pro-rated or arranged between the Union Pacific and the Southern Pacific at various times in different ways according to the work being done on the Union Pacific or on the Southern Pacific, or whether the excess of stress was on the Union Pacific or the Southern Pacific. Take last season, for instance. We had to give the lines east of the river more time, and we did give them more time.

Q. Last season?

A. Yes. And we allowed them more time on this last change of card.

Q. Why was that?

A. Well, they were all shot to pieces, they could not make any time—they could not make anything like their time, and we gave them about an hour, I think, more on the last card between Chicago and Omaha, and that time had to be taken up by the Southern Pacific and the Union Pacific.

Q. Did you do that without lengthening out the through time?

A. Oh, yes. The time from Chicago to San Francisco remained just the same, 7 o'clock P. M. and 7:28 into San Francisco, unless they have done it without any knowledge on my part.

7789 Q. The Union Pacific and the Southern Pacific maintained the integrity of the total schedule; is that the idea?

A. That is right; and at a time when the Union Pacific is operated with snow and ice and rain they put the running on the Southern Pacific, which is a dry line from Ogden to Sparks, making it run faster. May I explain what I mean by "dry line"? I have criticised in my remarks heretofore, one of the best roads in America, and I would like to explain.

Q. Before you come to that I would like you to answer one question. You stated in a somewhat general way that these roads between Chicago and Omaha were shot to pieces, that they could not make the time.

A. I will withdraw that. I hope you will expunge that remark.

Q. I have no objection to your metaphorical language, but I do not quite get at the meaning of your expression. Why was it they did not make the time? The record should show that.

A. I will use the language of the president of the almost perfect road of America—the Chicago & Northwestern, who for 37 years had operated the road, and who told me personally that in all his experience he had never seen anything like that 6 weeks. The Chicago & Northwestern Road, having double-tracked its line from Chicago to Omaha, had a great deal of soft track. In October the rains came, and in November and December the snows and ice came, and the soft track froze up, and any operating man knows what that means. It is humped and it is in awful condition. Now, the Northwestern Road was not in condition to go into the winter as it was ordinarily, and the subsequent operation of it proved that. And that

same thing affected the Milwaukee & St. Paul from the river to Chicago.

7790 Q. There were operating difficulties, then?

A. That is right.

Q. So far as the Union Pacific is concerned, what effect, if any, was there upon the passenger schedule of the Overland Limited due to conditions of construction, conditions arising out of the physical property of the Union Pacific since 1901?

A. Stupendous ones. The double-track, the rebuilding, the rehabilitation of the line; the delays incident to the movement of material, the consequent congestion; better described by the fact that you can not double-track a line for much less than you can build a new line. If a line costs you $30,000 a mile to build, it will cost you $30,000 a mile, or approximately so, to put another track right alongside of it. That means delay. The Union Pacific built the Lane cut-off, and that meant delay. They double-tracked 13 or 14 miles west of the Watson Ranch, and that caused delay. They built pieces of double track that later on will be hooked up to make the double track through 50 or 60 miles long, and all of that caused delay. Then, the Union Pacific, to my mind, is subject to more serious congestion than any road in the West. You might liken it to the small part of a funnel, only it has a funnel at both ends. Here are 6 or 7 lines, one of them a double-track line, from Chicago, with foreign business for the Union Pacific at Omaha, and the Union Pacific, having a single track line, expected to carry that traffic to Granger, where there is another funnel; and there comes the Oregon Short Line, and the Southern Pacific is at Ogden and the San Pedro at Ogden, throwing it in that way again. So that the Union Pacific, with a single track, is the recipient of business from six or seven tracks at Omaha and four tracks at Ogden, and it is a problem to move it all over

7791 that single track line.

Q. It has a connection also from Kansas City, hasn't it?

A. At Cheyenne. Not satisfied with giving it all it can do at Omaha, they put it in at Cheyenne, at a most embarrassing point; and also at Julesburg, from Denver. If it all came in at the terminals they could better arrange for it, but it does not. It is a one-track road trying to do a twelve-track business.

Q. They have been double-tracking it to some extent, have they not?

A. As fast as they can get men and weather conditions. The Union Pacific was laying double-track at a very rapid rate when on came the early winter. They have the iron and everything of that kind there, and if they have luck they will probably be double-tracked to Julesburg by late in the fall. That will help out.

Q. Has the Santa Fe done any construction work or reconstruction work west of Kansas City?

A. To their very great advantage, eliminating grades, and curves and all that.

Q. When was that?

A. It has been going on for a period of four or five years, and with the same trouble in the west that we encountered ourselves.

Q. Has it affected their passenger time?

A. The schedule has changed from time to time, as you will see. The passenger time of the Santa Fe road—I can't of course give their reasons for doing it like I can our own, but they went from 66-1/2 hours to 72 hours to Los Angeles.

Q. What is that?

A. I say they took longer time from Chicago to Los Angeles, they extended their trains from 66 to 72 hours. And I doubt
7792 whether they would have cut their time down the other day so as to arrive at Los Angeles at 3 o'clock P. M. if they had not about finished their work: in fact they are using some of their reconstructed work.

Q. Have they some double-track too?

A. Yes. How much I don't know, but they are double-tracking also between Chicago and Kansas City, which will be finished I think early next year.

Q. Have you a statement of the train service via the Ogden route covering 1900?

A. Yes, sir.

Q. Am I correct in assuming that that is the time covered—1900?

A. In 1900 between Ogden and San Francisco there were 3 passenger trains.

Q. Now just a moment, Mr. McCormick. I think we can have this statement marked as an exhibit. You also have a statement for 1909, have you not?

A. I have a statement, first, for 1900, giving the number of trains and the time of the trains: I have also a statement for September, 1909, giving the time of the trains, the equipment, etc., for the Ogden route, which includes not only the Union Pacific Road but the Denver & Rio Grande and its connections, everything leading from Ogden, everything that would pertain to that.

Q. Is there a statement of equipment?

A. Yes. And I have it for 1910, and I am working now in the hope that I may be able to file this instead of reading it.

Q. I won't ask you to read it.

A. And I have a comparative statement of the Ogden route, the running time. Take the month of January, 1900, as compared with September, 1909, and then of February, 1910, and in addition to that I have attached, as I was able to get it from the old Official
7793 Guides, the actual absolute record of the trains: I have it in print as well as in type.

Q. You say that is compiled in this statement?

A. It is compiled in this statement and it is in print here.

Q. The statement covers the year 1900, September, 1909, and February, 1910, as I understand it. Those are the periods to which this statement relates, are they not?

A. That is the period that this last statement of the comparative running time relates to; yes, sir.

Q. I see that you have taken the month of January in the year 1900 and the month of September in 1909 and the month of February in 1910. Is there any significance in the selection of those months?

A. No. We will give you the time of any and all of these trains for every day for 25 years, if they have been on that long.

Q. Did you select these months as illustrative?

A. Yes.

Mr. DUNNE. Mr. Severance, if you have no objection, I will have this marked as an exhibit, and give you a copy?

Q. This is taken from the Official Guide?

A. Yes.

Q. Is this a part of the exhibit?

A. That is a part of the exhibit. That is our time-card gospel. It is official. The figures were simply copied from the Guide, and I obtained permission from the people who own the Guide to take the sheets.

Mr. SEVERANCE. Are these slips cut from the Official Guides duplicates of the tables that you have?

WITNESS. Yes.

Mr. SEVERANCE. There would be no necessity of putting them in, then.

7794 WITNESS. No. I just had them here because I am doing this hastily and there might be some error.

Q. You can check that up, of course, but the matter contained in these printed pages is already typewritten here, is it not?

A. Yes.

The typewritten sheets produced by the witness were marked "Defendants' Exhibit 232."

WITNESS. I would like to explain why I selected those 3 months. If you will take the same year, 1900, you will probably find that the Overland Limited time was different; for instance, the Overland Limited might leave San Francisco at 8:30 in the morning, in January, and get to Chicago at 9:30, and it might leave there at 11 o'clock in the morning, in May, and get there some other time, because the controlling feature would be its connections. We aim to leave San Francisco nowadays as late as we can, for the convenience of the people who have to go out into the country. Since the cataclysm, more than ever before, the people live out of town—very many of them.

Q. Do you refer to the San Francisco fire?

A. I refer to the San Francisco fire, yes.

Mr. DUNNE. I now offer in evidence Defendants' Exhibit 232.

Defendants' Exhibit 232 is as follows:

7795 DEFENDANTS' EXHIBIT 232.

(McCormick.)

Train service via Ogden route.

In 1900, between Ogden and San Francisco, there were three through passenger trains:

WESTBOUND.

"Overland Limited."

No. 1.

Lv Ogden	12.30 noon, say Monday
Ar San Francisco	5.13 p. m. Tuesday

"Oriental Mail."

No. 5.

Lv Ogden	1.10 p. m. say Monday
Ar San Francisco	8.15 p. m. Tuesday

"Atlantic Express."

No. 3.

Lv Ogden	1.40 a. m. say Monday
Ar San Francisco	9.45 a. m. Tuesday

EASTBOUND.

"Overland Limited."

No. 2.

Lv San Francisco	8.30 a. m. say Monday
Ar Ogden	11.45 a. m. Tuesday

"Oriental Mail."

No. 6.

Lv San Francisco	6.30 p. m. say Monday
Ar Ogden	5.45 a. m. Wednesday

"Atlantic Express."

No. 4.

Lv San Francisco	9.00 a. m. say Monday
Ar Ogden	5.30 p. m. Tuesday

These Southern Pacific trains operated in connection with trains of the Union Pacific and D. & R. G., as shown by the next attached statement.

7796 *Ogden route—January, 1900.*

EASTBOUND.

Train #2, Overland Ltd.

Lv San Francisco.	8.30 a. m.	Monday
Ar Ogden.....	11.45 a. m.	Tuesday
Lv "	1.15 p. m.	"
Ar Omaha.....	7.20 p. m.	Wednesday
Lv Omaha.....	7.30 p. m.	"
Ar Chicago	9.30 a. m.	Thursday

71 hours.

Train #4, Atlantic Express.

Lv San Francisco.	9.00 a. m.	Mon.
Ar Ogden.....	5.30 p. m.	Tue.
Lv "	8.00 p. m.	Tue.
Ar Omaha.....	6.35 a. m.	Thur.
Lv "	6.40 a. m.	Thur.
Ar Chicago	8.15 p. m.	Thur.

81 hrs. 15 min.

Train #6, Oriental Mail.

Lv San Francisco.	6.30 p. m.	Mon.
Ar Ogden.....	5.45 a. m.	Wed.
Lv "	8.20 a. m.	Wed.
Ar Omaha.....	4.45 p. m.	Thur.
Lv "	4.55 p. m.	Thur.
Ar Chicago	7.45 a. m.	Fri.

83 hrs. 15 min.

WESTBOUND.

Train #1, Overland Limited.

Lv Chicago	6.30 p. m.	Monday
Ar Omaha.....	8.30 a. m.	Tue.
Lv "	8.50 a. m.	Tue.
Ar Ogden.....	1.00 p. m.	Wed. MT
Lv "	12.30 p. m.	Wed. PT
Ar San Francisco.	5.15 p. m.	Thur.

73 hrs. 45 min.

Train #3, Atlantic Express.

Lv Chicago	10.30 p. m.	Mon.
Ar Omaha.....	4.05 p. m.	Tue.
Lv Omaha.....	4.25 p. m.	Tue.
Ar Ogden.....	2.00 a. m.	Wed. MT
Lv Ogden.....	1.40 a. m.	Wed. PT
Ar San Francisco.	9.45 a. m.	Fri.

85 hrs. 15 min.

Train #5, Oriental Mail.
#3, Chicago to Denver.

Lv Chicago	10.30 p. m.	Mon.
Ar Omaha.....	4.05 p. m.	Tue.
Lv Omaha.....	4.25 p. m.	Tue.
Ar Denver.....	7.35 a. m.	Wed.
Lv Denver.....	8.30 a. m.	Wed.
Ar Ogden.....	10.45 a. m.	Thu.
Lv Ogden.....	1.10 p. m.	Thu.
Ar San Francisco.	8.50 p. m.	Fri.

96 hrs. 20 min.

EQUIPMENT.

Nos. 2 and 1: Solid vestibule train, between San Francisco and Chicago, carrying dining cars—composite cars—double drawing room sleepers; via SP, UP and C&NW.—and a drawing room sleeper between San Francisco and Denver; via SP & D&RG.

No. 4: Drawing room sleeping car and tourist sleeping car—San Francisco to Ogden.

No. 6: Drawing room sleeping car and tourist sleeping car, San Francisco to Chicago, via SP, UP, & C&NW; tourist sleeping car, San Francisco to Denver, via D&RG. Chair car, San Francisco to Ogden.

No. 3: Drawing room sleeping car and tourist sleeping car, Chicago to San Francisco, via C&NW, UP and SP. Tourist sleeping car Ogden to San Francisco.

No. 5: Drawing room sleeping car Ogden to San Francisco; tourist sleeping car Denver to San Francisco, via D&RG & SP; chair car, Ogden to San Francisco.

7797 *Ogden route—January, 1900.*

WESTBOUND.

		No. 1.	No. 5.	No. 3.
Lv. Chicago	C. & NW	6.30 p. m. Mon		10.30 p. m. Mon.
Ar. Omaha	"	8.00 a. m. Tues		4.05 p. m. Tues.
Lv. Omaha	U. P	8.50 a. m. Tues		4.25 p. m. Tues.
Ar. Ogden	"	1.00 p. m. Wed-MT		2.00 a.m.Wed.-MT
Lv. Chicago	C. B. & Q			
Ar. Denver	"		10.30 p. m. Mon	
Lv. Denver	D. & R. G		7.10 a. m. Wed	
Ar. Ogden	"		8.30 a. m. Wed	
Lv. Ogden			10.45 a. m. Thur	
Ar. San Francisco	S. P	12.30 p.m.Wed-PT	1.10 p. m. Thur	1.40 a.m.Wed.-PT
	"	5.15 p. m. Thurs	8.50 p. m. Fri	9.45 a. m. Fri.
Total time		73 hrs. 45 min	96 hrs. 20 min	85 hrs. 15 min.

7798 *Ogden route—January, 1900.*

EASTBOUND.

		No. 2.	No. 4.	No. 6.
Lv. San Francisco	SP	8.30 a. m. Mon	9.00 a. m. Mon	6.30 p. m. Mon.
Ar. Ogden	"	11.45 a. m. Tues	5.30 p. m. Tues	5.45 a. m. Wed.
Lv. Ogden	UP	1.15 p. m. Tues	8.00 p. m. Tues	8.20 a. m. Wed.
Ar. Omaha	"	7.20 p. m. Wed	6.35 a. m. Thur	4.40 p. m. Thur.
Lv. Omaha	C&NW	7.30 p. m. Wed	6. 40 a. m. Thur	4.55 p. m. Thur.
Ar. Chicago	"	9.30 a. m. Thur	8.15 p. m. Thur	7.45 a. m. Fri.
Lv. Ogden	D&RG			1.15 p. m. Wed.
Ar. Denver	"			2.25 p. m. Thur.
Lv. Denver	CB&Q			2.50 p. m. Thur.
Ar. Chicago	"			8.10 p. m. Fri.
Total time:				
SP-UP-C&NW		71 hrs	81 hrs. 15 min	83 hrs. 15 min.
SP-D&RG-CB&Q				95 hrs. 40 min.

Ogden Route—September, 1909.

WESTBOUND.

		No. 1.	No. 3.	No. 5.
Lv. Chicago	C. & N. W	7.00 p. m. Mon	10.45 p. m. Mon	
Ar. Omaha	"	7.05 a. m. Tue	3.28 p. m. Tue	
Lv. Chicago	C. M. & St. P.	7.00 p. m. Mon	10.10 p. m. Mon	
Ar. Omaha	"	7.05 a. m. Tue	3.25 p. m. Tue	
Lv. Chicago	C. B. & Q			11.00 p. m. Mon.
Ar. Denver	"			7.20 a. m. Wed.
Lv. Omaha	U. P	7.20 a. m. Tue	4.00 p. m. Tue	
Ar. Ogden	"	3.50 p. m. Wed	5.45 a. m. Thu	
Lv. Denver	D. & R. G			9.00 a. m. Wed.
Ar. Ogden	"			3.30 p. m. Thu.
Lv. Ogden	S. P	4.10 p. m. Wed	6.40 a. m. Thu	4.20 p. m. Thu.
Ar. San Francisco	"	7.28 p. m. Thur	2.48 p. m. Fri	8.28 p. m. Fri.
Total time:				
C. & N. W-UP-SP		74 hrs. 28 min	90 hrs. 3 m	
C. M. & St. P.-UP-SP		74 hrs. 28 m	90 hrs. 38 m	
C. B. & Q.-D. & R. G-SP.				95 hrs. 28 min.

7800 *Ogden route—September 1909.*

EASTBOUND.

		No. 2.	No. 4.	No. 6.	No. 10.
Lv San Francisco	SP	10.40a Mon	9.00a Mon	6.40p Mon	9.00p Mon.
Ar Ogden	"	2.10p Tue	5.35p Tue	6.20a Wed	7.10a Wed.
Lv Ogden	UP	2.30p Tue	7.40p Tue		8.20a Wed.
Ar Omaha	"	11.59p Wed	9.30a Thu		5.45p Thu.
Lv Omaha	C&NW	12.15a Thu	12.05p Thu		6.05p Thu.
Ar Chicago	"	12.45p Thu	6.45a Fri		8.30a Fri.
Lv Omaha	CM&StP	12.10a Thu			6.00p Thu.
Ar Chicago	"	12.45p Thu			8.00a Fri.
Lv Ogden	D&RG			7.00a Wed	
Ar Denver	"			1.10p Thu	
Lv Denver	CB&Q			4.15p Thu	
Ar Chicago				8.45p Fri	
Total time:					
SP-UP-C&NW		72h. 5m	91h. 45m		81h. 30m.
SP-UP-CM&StP		72h. 5m			81h.
SP-D&RG-CB&Q				96h. 5m	

7801 *Ogden Route—September 1909.*

EQUIPMENT.

Nos. 2 and 1—Overland Limited—Electric Lighted—Pullman standard Sleepers; Berths, Sections, Drawing-rooms. Compartment, San Francisco and Chicago (2) via S. P., U. P., C. & N. W. San Francisco and Chicago via S. P., U. P., C. M. & St. P. San Francisco and Chicago via S. P., R. G. W., D. & R. G., C. R. I. & P. San Francisco and Denver via S. P., U. P. Dining car: Meals a la carte. San Francisco and Chicago via S. P., U. P., C. & N. W. and U. P. and C. M. & St. P. Observation Car: Library, Club Room, Observation Rotunda, San Francisco and Chicago.

No. 6—Eastern Express—Reclining chair cars.—San Francisco to Chicago. Pullman Standard Sleepers: Berths, Sections, Drawing room, San Francisco to Chicago via S. P., R. G. W., D. & R. G., C. B. & Q. San Francisco to St. Louis via S. P., R. G. W., D. & R. G., M. P. Dining car: Meals a la carte, San Francisco to Sacramento. Truckee to Carlin. Pullman Tourist Sleepers; Daily San Francisco to Chicago, or St. Louis or Denver, via Colorado and C. B. & Q. or M. P. Daily, San Francisco to Sacramento thence Train No. 10 to Chicago via S. P., U. P., C. & N. W.

No. 10—China and Japan Fast Mail—Dining Car: Meals a la carte. Sacramento to Ogden and east. Pullman Standard Sleepers. San Francisco to Chicago via S. P., U. P., C. & N. W., and via S. P., U. P., C. M. & St. P., San Francisco to Sparks. Pullman Tourist Sleepers. Daily from San Francisco, semi-weekly personally conducted from Los Angeles (San Francisco to Sacramento on No. 6 leaving San Francisco 6:20 p. m.) to Chicago via S. P., U. P., C. & N. W. Daily from San Francisco and semi-weekly from
7802 Los Angeles to Chicago via S. P., U. P., C. M. & St. P. Reclining Chair Cars: San Francisco to Chicago.

No. 4—Atlantic Express—Reclining Chair Cars: San Francisco to Ogden. Pullman Standard Sleepers: Berths, Sections, Drawing-room. San Francisco to Salt Lake via S. P., O. S. L., Ely, Nev. daily, except Sunday, via Nev. No., S. P. and O. S. L. to Salt Lake City. Pullman Tourist Sleeper: Berths, Sections. Through Tourist Sleepers are carried Los Angeles or San Francisco to Chicago, St. Louis or Denver via Colorado, C. R. I. & P. or Mo. P., C. M. & St. P. Dining Car: San Francisco to Truckee, Winnemucca to Ogden.

No. 3—China and Japan Fast Mail—Reclining Chair Cars; Chicago to San Francisco. Pullman Standard Sleepers: Berths, Sections, Drawing-room. Chicago to San Francisco via C. M. & St. P., U. P., S. P. Chicago to San Francisco via C. & N. W., U. P., S. P., Salt Lake City daily, except Saturday, to Ely, Nev. via O. S. L., S. P. and Nev. No. Pullman Tourist Sleepers: Berths, Sections. Chicago to San Francisco via C. & N. W., U. P. and S. P. (Cars from Chicago Tuesdays and Thursdays run through to Los Angeles) Chicago to San Francisco via C. M. & St. P., U. P., S. P. (cars from Chicago Mondays and Wednesdays run through to Los Angeles). Dining Cars: Meals a la carte. Ogden to San Francisco.

No. 5—Western Express—Reclining Chair Cars: Ogden to San Francisco Pullman Standard Sleepers: Berths, Sections, Drawing-rooms. Chicago to San Francisco via C. B. & Q., D. & R. G., R. G. W., S. P. St. Louis to San Francisco via M. P., D. & R. G., R. G. W., S. P. Salt Lake to San Francisco via O. S. L., S. P. Pullman Tourist Sleeper: Berths, Sections. Chicago, St. Louis or Denver via C. M. & St. P., C. R. I. & P., M. P., C. B. & Q., and Colorado to San Francisco and Los Angeles. Dining Cars: Meals a la carte. Ogden to San Francisco.

Ogden route—February, 1910.

WESTBOUND.

		No. 1.	No. 3.	No. 5.
Lv. Chicago	C. & N. W.	7.00 p. m. Mon.	10.45 p. m. Mon.	
Ar. Omaha	"	7.45 a. m. Tue.	3.28 p. m. Tue.	
Lv. Chicago	C. M. & St. P.	7.00 p. m. Mon.	10.10 p. m. Mon.	
Ar. Omaha	"	8.00 a. m. Tue.	3.25 p. m. Tue.	
Lv. Chicago	C., B. & Q.			11.00 p. m. Mon.
Ar. Denver	"			7.20 a. m. Wed.
Lv. Omaha	U. P.	8.15 a. m. Tue.	4.10 p. m. Tue.	
Ar. Ogden	"	4.30 p. m. Wed.	5.45 a. m. Thu.	
Lv. Denver	D. & R. G.			9.00 a. m. Wed.
Ar. Ogden	"			3.30 p. m. Thu.
Lv. Ogden	S. P.	4.50 p. m. Wed.	6.40 a. m. Thu.	4.20 p. m. Thu.
Ar. San Francisco	"	7.28 p. m. Thu.	2.48 p. m. Fri.	8.28 p. m. Fri.
Total time:				
C. & N. W.—U. P.—S. P.		74 hrs. 28 min.	90 hrs. 3 min.	
C.M.& St.P.—U.P.—S.P.		74 hrs. 28 min.	90 hrs. 38 min.	
C., B. & Q.—D. & R. G.—S. P.				95 hrs. 28 min.

7804 *Ogden route—February, 1910.*

EASTBOUND.

		No. 2	No. 4	No. 6	No. 10
Lv San Francisco	SP	10.40 a. m. Mon	9.00 a. m. Mon.	6.40 p. m. Mon.	9.00 p. m. Mon.
Ar Ogden	"	2.10 p. m. Tue.	5.35 p. m. Tue..	6.20 a. m. Wed.	7.10 a. m. Wed.
Lv Ogden	UP	2.30 p. m. Tue.	6.50 p. m. Tue..		8.30 a. m. Wed.
Ar Omaha	"	11.30 p. m. Wed	6.45 a. m. Thu..		5.45 p. m. Thu.
Lv Omaha	C&NW	11.45 p. m. Wed	7.00 a. m. Thu..		6.05 p. m. Thu
Ar Chicago	"	1.00 p. m. Thu	8.50 p. m. Thu		8.30 a. m. Fri.
Lv Omaha	CM&StP..	11.45 p. m. Wed			6.00 p. m. Thu.
Ar Chicago	" ..	1.00 p. m. Thu			8.00 a. m. Fri.
Lv Ogden	D&RG			7.00 a. m Wed.	
Ar Denver	"			1.10 p. m. Thu.	
Lv Denver	CB&Q			4.15 p. m. Thu.	
Ar Chicago	"			8.45 p. m. Fri..	
Total time:					
SP-UP-C&NW		72 h. 20 m.	81 h. 50 m.		81 h. 30 m.
SP-UP-CM&StP		72 h. 20 m.			81 hours.
SP-D&RG-CB&Q				96 h. 5 m.	

7805 *Ogden Route—February 20th, 1910.*

EQUIPMENT.

Trains 2 and 1—Overland Limited, Electric lighted.—Pullman Standard Sleepers: berths, sections, drawing room, compartment, San Francisco and Chicago (2), via S. P., U. P., C. & N. W. San Francisco and Chicago via S. P., U. P., C. M. & St. P. San Francisco and Chicago via S. P., D. & R. G., C. R. I. & P. San Francisco and Kansas City via S. P., U. P. Dining car: meals *a la carte*. San Francisco and Chicago, via S. P., U. P., C. & N. W., and U. P., C. M. & St. P. Observation car: library, club room, observation rotunda. San Francisco and Chicago.

Train 6—Eastern Express.—Reclining chair cars: San Francisco to Chicago. Pullman Standard Sleepers: Berths, sections, drawing room. San Francisco to Chicago via S. P., D. & R. G., C. B. & Q. San Francisco to St. Louis via S. P., D. & R. G., M. P. Dining car: Meals a la carte. San Francisco to Sacramento. Truckee to Carlin. Pullman Tourist sleepers: daily, San Francisco to Chicago, or St. Louis or Denver via Colorado and C., B. & Q. or M. P. Daily, San Francisco to Sacramento, thence train 10 to Chicago via S. P., U. P., C. & N. W.

Train 10—China and Japan Fast Mail.—Dining car: meals a la carte. Sacramento to Ogden and East, Pullman Standard Sleepers: San Francisco to Chicago via S. P., U. P., C. M. & St. P. and via S. P., U. P., C. & N. W.; San Francisco to Sparks. Pullman Tourist Sleepers: daily from San Francisco, semi-weekly personally conducted from Los Angeles (San Francisco to Sacramento on train No. 6, leaving San Francisco 6.40 p. m.) to Chicago via S. P., U. P., C. & N. W. * Reclining chair cars: San Francisco to Ogden.

* Daily from San Francisco and semi-weekly from Los Angeles, to Chicago, via S. P., U. P., C. M. & St. P.

Train 4—Atlantic Express.—Reclining chair cars: San Francisco to Ogden. Pullman Standard Sleepers: berths, sections,
7806 drawing room, San Francisco to Salt Lake via S. P., O. S. L., Ely, Nev., daily except Sunday, to Salt Lake City via Nev. No., S. P., O. S. L. Pullman Tourist Sleepers, berths, sections. Through tourist sleepers are carried Los Angeles or San Francisco to Chicago, St. Louis or Denver via Colorado and C., R. I. & P. or Mo. P., C. M. & St. P. Dining car: San Francisco to Truckee, Winnemucca to Ogden. Meals a la carte.

Train 3—China and Japan Fast Mail.—Reclining Chair Cars: Chicago to San Francisco. Pullman Standard Sleepers: berths, sections, drawing-room. Chicago to San Francisco via C. M. & St. P., U. P., S. P. Chicago to San Francisco via C. & N. W., U. P., S. P. Salt Lake City, daily except Saturday, to Ely, Nev. via O S. L., S. P., Nev. No. Pullman Tourist Sleepers: berths, sections, Chicago to San Francisco via C. & N. W., U. P., S. P. (Cars from Chicago, Tuesdays and Thursdays run through to Los Angeles.) Chicago to San Francisco via C. M. & St. P., U. P., S. P. (Cars from Chicago Mondays and Wednesdays run through to Los Angeles.) Dining car: meals a la carte. Ogden to San Francisco.

Train 5—Western Express.—Reclining Chair Cars: Ogden to San Francisco. Pullman Standard Sleepers: berths, sections, drawing rooms. Chicago to San Francisco via C., B. & Q., D. & R. G., S. P. St. Louis to San Francisco via M. P., D. & R. G., S. P. Salt Lake to San Francisco via O. S. L., S. P. Pullman Tourist Sleepers: berths, sections. Chicago, St. Louis or Denver via C. M. & St. P., C., R. I. & P., M. P., C., B. & Q., and Colorado to San Francisco and Los Angeles. Dining car: meals a la carte. Ogden to San Francisco.

7807 *Comparative running time*

OGDEN ROUTE

Train	*January 1900.*	*September 1909*	*February 1910.*
1	73′ 45″	74′ 28″	74′ 28″
2	71′ 00″	72′ 05″	72′ 20″
3	85′ 15″	C. & N. W. 90′ 03″ / C.M & St.P. 90′ 38″	C. & N. W. 90′ 03″ / C.M.& St.P. 90′ 38″
4	81′ 15″	91′ 45″	81′ 50″
5	96′ 20″	95′ 28″	95′ 28″
6	UP 83′ 15″ / D.&R.G. 95′ 40″	96′ 05″	96′ 05″
10		C. & N. W. 81′ 30″ / C. M. & S. P. 81′ 00″	C. & N. W. 81′ 30″ / C. M. & St. P. 81′ 00″

An adjournment was then taken until the morning of Friday, March 4, 1910, at 10.30 o'clock.

7808 ROOM 720, CUSTOM HOUSE, NEW YORK CITY,
Friday, March 4, 1910—10.30 A. M.

The hearing was resumed before the Special Examiner, Hon. Sylvester G. Williams, at the above time and place.

Present: On behalf of the Complainant, Mr. C. A. Severance, Mr. G. E. Husted; on behalf of the Defendants, Mr. Peter F. Dunne, Mr. N. H. Loomis.

ERNEST O. McCORMICK,

recalled.

Direct examination, resumed, by Mr. DUNNE.

Q. Have you a comparative statement of the running time of the Ogden route, Chicago to San Francisco, for 1900, and some recent year?

A. Yes, for the dates mentioned last, yesterday: comparing January, 1900, September 1900, February 1910, for the east and westbound trains, which numbers are given here.

Q. Will you give us those data? Give us the number.

A. I might say that a copy of this statement is attached to the papers that I gave you yesterday.

Mr. DUNNE. Mr. Severance, the copy of the exhibit that I handed you did not contain this table.

Mr. SEVERANCE. Is this 1900, or a comparative statement?

WITNESS. This is for January, 1900, train 1 (the Overland Limited), westbound from Chicago; time, 73 hours and 45 minutes. That same train, September, 1909, consumed 74 hours and 28 minutes; February 10, 74 hours and 28 minutes. The opposing train (No. 2) eastbound from San Francisco, January 1900, 71 hours; Sep-
7809 tember 1909, 72 hours and 5 minutes; February 1910 72 hours and 20 minutes: with the explanation that the train in 1900 was not as heavy a train as in 1909 and 1910, so far as car equipment is concerned.

Mr. SEVERANCE. You said that that was the time westbound from Chicago; but the time you are giving is from Omaha to San Francisco and San Francisco to Omaha, and not Chicago?

WITNESS. No, Chicago to San Francisco, I am giving you, clear through, in this sheet.

Mr. SEVERANCE. Are you sure?

WITNESS. Oh, yes. The average time is about 72 or 73 hours on those trains. Now, No. 3, via Chicago & Northwestern, westbound, 85 hours and 15 minutes through.

Mr. SEVERANCE. That is in 1900?

WITNESS. That is in 1900. That is a very heavy train; carries all classes of equipment, and, if necessary, carries empty equipment westbound for return of eastbound passengers; that is, today. That train, in September, 1909, 90 hours and 3 minutes by the Chicago & Northwestern, U. P., S. P., and 90 hours and 38 minutes by the Chicago, Milwaukee & St. Paul-S. P. In February, 1910, that train, 90 hours and 3 minutes with the Northwestern connection; 90 hours and 38 minutes with the Milwaukee & St. Paul. Again, the same

explanation: that that train was a much heavier train in 1909–10 than it was in 1900, when it had only the Northwestern through equipment. No. 4 (the opposing train) eastbound, San Francisco to Chicago: in 1900 (delivery being made at Omaha to the Chicago
& Northwestern) 81 hours and 15 minutes; September 1909,
7810 91 hours and 45 minutes; February 1910, 81 hours and 50 minutes. No. 5, westbound, Chicago to San Francisco (being practically the train that the Southern Pacific operates for the Denver & Rio Grande and its connections—cars coming to the Southern Pacific at Ogden, for instance C. B. & W. out of Chicago via D. & R. G. and then S. P.) in January 1900, 96 hours and 20 minutes; in September 1909 (taking that same line, C. B. & Q. and D. & R. G., although this train is served by other connections of the D. & R. G.) 95 hours and 28 minutes; February 1910, 95 hours and 28 minutes. Explanation: that the route from San Francisco to Chicago via the D. & R. G. and its connections is some 200 miles longer than the route via the Union Pacific direct. The opposing train (No. 6) D. & R. G., 95 hours and 40 minutes, in 1900; by the U. P. 83 hours and 15 minutes.

Mr. SEVERANCE. I don't understand that.

WITNESS. Well, that train, say in 1900, out of San Francisco ran to a connection of both the Union Pacific and the Rio Grande, and if the cars were delivered to the Union Pacific they made better time than down around the Rio Grande.

Mr. SEVERANCE. What was the U. P. time?

WITNESS. I will give you the U. P. time first. That No. 6, eastbound, in January, 1900, 83 hours and 15 minutes from San Francisco to Chicago. Denver & Rio Grande, 95 hours and 40 minutes. That train, in September, 1909, served only the Denver & Rio Grande and its connections, and its time was 96 hours and 5 minutes. Again, in February 1910, serving D. & R. G. and its connections, only, 96 hours
and 5 minutes. In addition to that service eastbound from
7811 San Francisco (which apparently makes the Southern Pacific run what we call a one-legged service between Ogden and San Francisco) we have another passenger train (No. 10) leaving San Francisco somewhat later.

Q. What do you mean by a "one-legged" service?

A. I mean that if you had four passenger trains going east and three going west (as they have on the Southern Pacific between Ogden and San Francisco) you would call it a one-legged service.

Q. It is a train that goes one way?

A. One way.

Mr. SEVERANCE. That goes and never comes back?

WITNESS. Yes, it does come back. It comes back as the big Overland Mail, which carries no passenger cars with the exception that when it gets over the mountain they may put on something any time they want to when it is going down grade there: so that train, in 1900, as you will notice, had to carry both the Union Pacific connection and the Denver & Rio Grande: but latterly they have been

split up and the Union Pacific goes out on this No. 10—whatever there is it for it. Eastbound that train makes 81 hours and 30 minutes, with the Union Pacific and Northwestern; and it makes 81 hours if it goes over the St. Paul road,—in September, 1909; and in February, 1910, eastbound, via the Northwestern, 81 hours and 30 minutes, and via the St. Paul, 81 hours.

Mr. SEVERANCE. You don't have any figures for 1900, for that?

WITNESS. It was not on. By referring to No. 6, you will see that that was the train that served both of them.

Q. When did you say you entered upon your duties as pas-
7812 senger traffic manager of the Southern Pacific Company—what year?

A. In 1899. I think it was in May.

Q. Until 1904 I think you said?

A. Yes, I was passenger traffic manager until 1904.

Q. During that time were you operating train service between San Francisco and Portland?

A. Yes.

Q. How was the passenger traffic by the steamship line, between San Francisco and Portland, related to the conduct of the rail business between the same points, during your administration?

A. There was a steamship line between San Francisco and Portland, and there were the through trains by the railroad.

Q. What I had in mind was to develop the effect, if any, upon the conduct of the rail business between those points, so far as passenger traffic is concerned, of the circumstance that there was a steamship line being operated between San Francisco and Portland.

A. To my mind, the effect was so little that, finding abnormally low rates in effect at that time (the rail rate including sleeping car which was a most unusual thing) I finally had those rail rates raised considerably, and without any care as to what the steamship did, or without any let or hindrance on their part.

Q. You say the effect was "so little"; that is somewhat general in form of statement. Can you state that a little more fully?

A. I mean I felt that the bulk of the business came from the tourist and the scenery-loving people of the country (we got most of our travel from them at that time), as we afforded the scenic at-
7813 tractions (and we would not let them run the boats up our railroad), that we ought to get more money for it. It was very expensive service. The rates that I found in there at the time (to be perfectly fair) had been advanced from the time of the war that has been referred to in the testimony of others, but they had not been advanced to a consistent figure, and——

Q. I had not in mind so much the rate question. What I wanted to ascertain from you was, during the years of your administration of the office of passenger traffic manager, to what extent, if at all, was the steamship line a factor in that passenger traffic situation, and more particularly as related to the railroad company and its conduct of the passenger business between those points?

A. The steamship line certainly carried business—a considerable business. The rail lines carried a good big business. And I paid no attention, as in charge of the affairs of the rail line, to the steamship line; that is, I did not pay sufficient attention to it to enable me to testify at this time just what they did do. I know they did a business, and I know they did a considerable business for steamship lines.

Q. Do you know how the passenger business of the steamship line compared with the passenger business of the railroad line?

A. Very little; infrequent sailings; the boats, to my mind, being taken by people who wanted the ocean trips.

Q. In point of volume, how did the steamship passenger traffic compare with the rail passenger traffic?

A. Very inconsiderable.

Q. Then when you use the term "a considerable business" by the steamship, you are speaking absolutely, not relatively; is that
7814 correct? What I mean is this: was the steamship business as compared with the rail business considerable or inconsiderable?

A. To my mind, inconsiderable; just as I have been saying.

Q. Well, you say you paid no attention to the steamship business. Why was that?

A. If I said I paid no attention to the steamship business, I did not intend to convey that impression; because I was not careless of even the business that chose that route up there on horseback. I watched all business that could possibly be contracted. To be perfectly candid with you—not "with you" because I am always with you—but to get to you what was in my mind, I was very glad there was a steamship line there; because I think it in some way might have been attractive to people over there, and everything and anything that would attract people over there we were glad of. If there was any tourist that could be attracted by that steamship line, I knew very well he would not go that way both ways, and I do not think he would ever go that way again.—and we would get him back. If he was going down from Seattle to Los Angeles and back, and took a boat-line down, we would be sure to get the money going the other way.

Q. You are a practical man, and, taking some concrete factors of passenger traffic management, you mentioned rates. Take the character and quality of your service, the accommodations to the public, and those various concrete aspects of the situation. Did you conduct your business on the rails with special relation to the steamship company?

A. With no relation whatever to the steamship company.

Q. Why wouldn't that passenger go back by steamship?

7815 A. Unless he had taken the trip from Australia to New Zealand, which they say is the worst trip you can get on water next to the trip from Havana to New Orleans during the Equinox, he would be afraid ordinarily to go back.

Q. Well, that is rather a concrete statement.

A. I am glad I got one concrete statement in the record.

Mr. SEVERANCE. I am sorry Mr. Dunne has to cross-examine his own witness to get anything he wants.

WITNESS. He has a way of getting what he wants, finally.

Q. I wanted the thing stated concretely. You railroad men make statements which you take as a matter of course because it is so familiar to you from your experience; but some of us have not had so much experience.

A. I notice that I even had to explain "one-legged" service.

Q. Well, you abound in metaphor. However, let me get you back to something arithmetical rather than physiological. I have a memorandum before me of a list of through sleeping cars run in connection with the D. & R. G. from January 3, 1910. I would like to inquire of you, in 1900 did the D. & R. G. take any car or cars daily from the Southern Pacific?

A. Yes, in 1900. 1900 I can give you from recollection. Eastbound they had one car; it was a car between San Francisco and Denver, as I recollect it.

Q. Was that a Pullman?

A. That was a tourist car.

Q. From San Francisco to Denver?

A. Yes.

Q. Did they have a car San Francisco to Chicago?

A. By the D. & R. G.?

Q. Yes.

A. No.

7816 Q. Will you give me the data for the through sleeping cars run in connection with the D. & R. G., eastbound and westbound, in 1910?

A. I have it here, January 3, 1910. Eastbound: standard sleeper; Oakland to Chicago, D. & R. G., C. R. I. & P., train No. 2, daily, one car. Oakland to Chicago, D. & R. G., C. B. & Q., No. 6, daily. Oakland to St. Louis, D. & R. G., Missouri Pacific, No. 6——

Mr. SEVERANCE. Excuse me. You mean there is a car that goes to Chicago?

WITNESS. Yes. I am giving you a standard sleeper on each one of these trains. The second was the car Oakland to Chicago by D. & R. G. and C. B. & Q., out of San Francisco on No. 6, daily. The next car, Oakland to St. Louis, D. & R. G., Missouri Pacific, daily; with the explanation that while ordinarily only one car would be operated on that train out of San Francisco via Ogden and the D. & R. G. daily, for the last two roads on No. 6, if they had more business they could have more cars; while on the first train, No. 2, operated in connection with the Rock Island, it being the Overland Limited, they would ordinarily be confined to one car. Continuing eastbound, under the head of "tourist," starting with Los Angeles, these cars coming up via Oakland or Sacramento, etc., and going east to Ogden and then over the D. & R. G. road and its connections: first car, Los Angeles to Chicago, D. & R. G., C. R. I. & P., on train No. 4, semiweekly; Los Angeles to Chicago, D. & R. G., Colorado Midland, C.

R. I. & P., No. 4, weekly; Los Angeles to Chicago, D. & R. G., Missouri Pacific, Chicago, Milwaukee & St. Paul, train 4, semi-weekly.

7817 Mr. SEVERANCE. That is to Chicago, too, is it?

WITNESS. Chicago. Next: Los Angeles to Chicago, D. & R. G., Burlington, train 6, weekly. Next: Los Angeles to Chicago, D. & R. G., Burlington, train 6, semi-weekly.

Mr. SEVERANCE. You ran one car weekly and one semi-weekly, over the same route?

WITNESS. Yes. Over the same route. And again with the explanation that they demanded one every day on these trains because they carry more cars. Next: Oakland to Denver, D. & R. G., one car semi-weekly. Next: Oakland to Denver, D. & R. G., train 4, weekly. Next: Oakland to St. Louis, D. & R. G., Rock Island, train 4, weekly. Next: Los Angeles to St. Louis, D. & R. G., Burlington, train 6, weekly. Next: Los Angeles to St. Louis, D. & R. G., Missouri Pacific, train 6, weekly. This made a total delivery, east-bound, from the Southern Pacific to the D. & R. G. at Ogden, of three standard sleepers daily, and fourteen tourists each week.

Under the heading "Westbound": Standard sleepers; Chicago to Oakland, Rock Island, D. & R. G., No. 1 (Overland Limited) daily; Chicago to Oakland, C. B. & Q., D. & R. G., train 5, daily; St. Louis to Oakland, Missouri Pacific, D. & R. G., train 5, daily. Under the heading "Tourist": Chicago to Los Angeles, C. R. I. & P., D. & R. G., train 5, semi-weekly; Chicago to Los Angeles, C. R. I. & P., Colorado Midland, D. & R. G., train 5, weekly; Chicago to Los Angeles, Chicago, Milwaukee & St. Paul, Missouri Pacific, D. & R. G., train 3, semi-weekly; Chicago to Los Angeles, Burlington, Colorado Midland, D. & R. G., train 5, weekly; Chicago to Los Angeles, Burling-

7818 ton, D. & R. G., train 5, semi-weekly; Denver to Oakland, D. & R. G., train 5, daily; St. Louis to Oakland, C. R. I. & P., D. & R. G., train 5, weekly; St. Louis to Los Angeles, Burlington, D. & R. G., train 5, weekly; St. Louis to Los Angeles, Missouri Pacific, D. & R. G., train 5, weekly. This made a total of three standards daily, and eighteen tourists each week.

Q. I understood you to state that in July, 1900, the Denver & Rio Grande got one car daily from you—a tourist, San Francisco to Denver; did I understand you to make that statement?

A. I said that was my recollection. I haven't anything here to show what they had.

Mr. DUNNE. Mr. Severance, Mr. Horsburgh advises me that the service instead of being a tourist San Francisco to Denver was a standard car San Francisco to Denver, and that in addition to that there was a weekly tourist San Francisco to Chicago.

Mr. SEVERANCE. Well, let the testimony be amended to show that.

WITNESS. I think the memorandum I gave you last night will show that, but I haven't any memorandum of it. Last night I turned the memorandum over to the stenographer, as evidence.

Mr. DUNNE. I do not think it shows that datum.

Witness. Possibly not. I haven't anything other than memory to go on as to that.

Q. Does the Union Pacific participate in the so-called personally conducted tourist car business to the Pacific coast, and to what extent?

A. They do participate but not as extensively in that business as the D. & R. G. and its connections, simply because they cannot.

7819 It is not from lack of desire, but they cannot accommodate the cars that are tendered them nor the cars that they would like to have.

Q. Why is that?

A. It is on account of arbitrary limitations placed on the Union Pacific road. First, the Union Pacific, as I have explained before, is a single track line. It is trying to do a 4-track business.

Mr. Severance. 12, you said yesterday.

Witness. Well, this is westbound, now. It is trying to do an 8-line business; I am going west now. Coming east I will add 4 lines to it—and then we have a 12-track business.

Q. Don't let Mr. Severance expand you unduly.

A. He is inspiring. Going westbound they are fed by all the lines into Omaha. I won't relate that. But they have got just as many passenger trains on the Union Pacific to-day as they can possibly run and take care of the freight they are running. This has operated to such an extent that the Union Pacific masses its passenger trains; and that is not a good thing, ordinarily, for a railroad trying to serve locally, as you have to in that country, with through trains. But if you do mass your trains, you get your road back. For instance, if you had six trains going west and you could put them all in 120 minutes—2 hours—and you could do that on the Union Pacific road, if you had to, because, by the expenditure of money, etc., they have provided a block system that enables you to do that—you would have your road back in 2 hours. Now, that is impracticable. But they operate as well as they can, and make a decent spread in order to

7820 afford safe meets and passes. If you spread passenger trains 40 minutes apart on a single track railroad, you can't operate your railroad; you can't get trainmen to go out of sidings, that is, with cuts of freight, against opposing fast passenger trains.

Q. What period of time are you speaking of?

A. I am speaking of ever since the Union Pacific began this new construction work, rebuilding, improvement by the electric signaling and the double tracking, and the Lane cut-off, and the fills over there.

Q. Well, the period since 1900?

A. Oh, surely, since 1900.

Mr. Severance. Before that, wasn't it?

Witness. No.

Mr. Severance. They began before that?

Witness. I am only speaking since 1900, because I am referring now to the excess of passenger trains.

Q. Has the Union Pacific been compelled to refuse any cars from connections?

A. From almost all of its connections, even going so far as to refuse to receive through cars at Omaha, from the Chicago, Rock Island & Pacific Railroad, which line could serve the territory between Chicago and Omaha, and other territory there. They have refused the Illinois Central.

Q. What kind of cars?

A. The Rock Island, standard and tourist both.

Q. How about the Illinois Central?

A. They have refused the Illinois Central, standard and tourist both, not only to California but to Denver via Julesburg. The Illinois Central wanted to make delivery to the Union Pacific at Omaha of through service. Couldn't take it. And I could go on and
7821 explain, if you wanted me to. The Chicago Great Western road have asked for the same thing. Can't do it. But when they finish these improvements they can, and I presume will do it.

Q. There was some reference made on the examination of one of the witnesses (Mr. Kruttschnitt, I believe) to the schedule time having been changed since the taking of the testimony began. Are you familiar with that change in the schedule?

A. Yes.

Q. Did it have any relation whatever to this case, do you know?

A. No. As I understood the point (I think I was in the room at the time) some reference was made to the schedule having been changed, and to a shortening of the Overland Limited time, since Mr. Kruttschnitt took the stand. For the purpose of being correct, I looked it up. No change was made since he took the stand, for any other reason than that explained yesterday, to Portland, which was brought about by mail conditions; and no change between Chicago and San Francisco for the whole haul; but the time was changed and the Southern Pacific road west of Ogden did shorten its schedule between Ogden and San Francisco. That was caused by a longer time being given to the lines between Omaha and Chicago—the Northwestern and Milwaukee roads. They had to have longer time between Chicago and Omaha, on account of the stress of weather, the condition of their tracks, etc. That number of hours taken out of Chicago to Omaha, the balance of the time was divided between the Union Pacific and the Southern Pacific, and that is never set; you can change it one day or the other. If the conditions are better for the Southern Pacific to make the time, they make it a little faster; or the Union Pacific; just as they do the Northwestern. In this case the through train time from Chicago to San Francisco is the same, but the Southern Pacific expedited west of Ogden.

7822 Cross-examination by Mr. SEVERANCE:

Q. Mr. McCormick, will you please turn to the statistics that you had showing the movement of the Overland Limited eastbound and westbound in 1900 as compared with September, 1909? You were

testifying with reference to the through time of those trains from Chicago to San Francisco. I want to direct your attention to the time consumed on the Union Pacific and Southern Pacific lines between Omaha and San Francisco, taking first the Overland Limited No. 1 westbound, January, 1900, which you will find on page 4 of Defendants' Exhibit 232. In January, 1900, the Overland No. 1 left Omaha at 8:50 A. M. Is that right?

A. 8:50 A. M., on Tuesday, yes.

Q. And arrived at San Francisco at 5:15 P. M. on Thursday?

A. Yes; that is correct.

Q. Making a running time from Omaha to San Francisco of 56 hours and 25 minutes?

A. 8:50 A. M. Tuesday to 8:50 P. M. of Thursday would be 60 hours, and 5:15 to 8:50 would be 3 hours, and 35 minutes, which, deducted, would leave 56 hours and 25 minutes.

Q. Yes, that is right. Now turn to the same train, the Overland Limited, No. 1, September, 1909, and see if that did not leave Omaha at that time at 7:20 A. M. Tuesday, arriving at San Francisco at 7:28 P. M. Thursday.

A. I have it here as leaving Omaha, westbound, at 7:20 A. M. Tuesday, and arriving at San Francisco 7:28 P. M. Thursday.

Q. That would be 60 hours and 8 minutes, wouldn't it?

A. I am willing to accept that if you have figured it.

7823 Q. You can look at it and see.

A. Yes, that is right.

Q. Then, the time of the Overland Limited, over the Union Pacific and Southern Pacific lines, from Omaha to San Francisco, has been lengthened out between January, 1900, and September, 1909, the difference between 56 hours and 25 minutes and 60 hours and 8 minutes, or 3 hours and 43 minutes. Is that right?

A. Yes.

Q. Nearly 4 hours?

A. Yes.

Q. Now take the return movement of that train.

A. May I ask you if you took the through time in both of those cases?

Q. You mean from Omaha?

A. The return train in September, 1909, or do you want to go back?

Q. I want both of them. We have now cleaned up the Overland Limited westbound in 1900 and 1909 and made a comparison. Now I want to make a comparison of the same train, No. 2.

A. January, 1900, No. 2 left San Francisco at 8:30 A. M. Monday, and arrived at Omaha at 7:20 P. M. on Wednesday.

Q. That would be 58 hours and 50 minutes, wouldn't it, making no allowance in any of these cases for change of time, because it would be immaterial for purposes of comparison?

A. It would be 58 hours and 50 minutes.

Q. Now turn to the same train in September, 1909.

A. No. 2 left San Francisco at 10:40 A. M. Monday and arrived at Omaha at 11:59 P. M. Wednesday.

Q. That is 61 hours and 19 minutes, isn't it?

A. Yes.

Q. Then, the Overland Limited eastbound has had its time increased or lengthened, from January, 1900, to September, 1909,
7824 from 58 hours and 50 minutes to 60 hours and 19 minutes, or 2 hours and 29 minutes—practically 2 hours and a half? Is that right?

A. Yes, between Omaha and San Francisco.

Q. That is what I am speaking of. Now turn to train No. 3 in 1900.

A. It left Omaha at 4.25 p. m. Tuesday and arrived at San Francisco at 9.45 a. m. Friday.

Q. That is 65 hours and 20 minutes, isn't it?

A. 4.25 Tuesday to 9.45 Friday would be 65 hours and 20 minutes.

Q. Now turn to that same train, No. 3, in September, 1909.

A. No. 3 in September, 1909, left Omaha at 4 p. m. on Tuesday and arrived at San Francisco 2.48 p. m. Friday.

Q. That would be 70 hours and 48 minutes, wouldn't it?

A. 70 hours and 48 minutes.

Q. So that train No. 3 westbound has been lengthened in time, from January, 1900, to September, 1909, from 65 hours and 20 minutes to 70 hours and 48 minutes, or 5 hours and 28 minutes slower in 1909 than in 1900? Is that right?

A. Yes.

Q. Now take that same train eastbound, No. 4, for January, 1900.

A. It left San Francisco 9 a. m. on Monday and arrived at Omaha at 6.35 a. m. on Thursday.

Q. That is how long?

A. That would be 69 hours and 35 minutes.

Q. Now take that train in September, 1909.

A. No. 4 left at 9 o'clock a. m. Monday, and got to Omaha at 9.30 a. m. on Thursday.

Q. That would be 70 hours and 30 minutes, wouldn't it?

A. That would be 70 hours and 30 minutes.

Q. So that train No. 4 has had its time lengthened between January, 1900, and September, 1909, from 69 hours and 35 minutes,
7825 San Francisco to Omaha, to 72 hours and 30 minutes, or 2 hours and 55 minutes—practically 3 hours? Is that correct?

A. Yes.

Q. Now, the Southern Pacific and Union Pacific line from San Francisco to Omaha was about 90 miles shorter in September, 1909, than it was in January, 1900, wasn't it?

A. In miles, yes.

Q. And the grades have been greatly reduced and the curvature eliminated to the large extent as heretofore testified to?

A. Yes.

Q. You spoke at one time during your testimony about the fact that the trains' equipment is heavier now than it was years ago. It is a fact that your engines are also much heavier, isn't it?

A. Yes.

Q. Your power is much greater, or you could not haul the trains, and your track is in much better condition?

A. Part of the time and part of the way in much better condition; part of the time not in anything like as good condition, on account of construction, but that varies with the slow orders. It is not in as good condition for running. But where the track is completed it is very much better than it was in 1900.

Q. I think you did not give in your consist of these various trains (at least I do not recall that you did) the tourist car service over the Union Pacific and Southern Pacific.

A. Today?

Q. Yes, sir.

A. I don't know whether I did or not.

Q. No, I don't think you did. And in 1900. I don't think you gave it for either time.

A. I think you will find it in connection with those sheets which I filed with the reporter last night—I mean the printed pages taken from the Guide. The statement shows the consist of those trains.

7826 Q. That is right; it is here. Your attention was not called to it in your testimony.

A. You accepted those without my reading.

Mr. DUNNE. I said I would not ask you to read all of it.

Q. One thing I did not quite understand this morning. You were asked with reference to the passenger train service between San Francisco and Portland, and, as I understood you, you stated that when you went to the Southern Pacific the railroad was absorbing the sleeping car charge between those places.

A. Yes, and a most peculiar arrangement. The first class ticket included a sleeping car berth, and the second class ticket included a a sleeping car berth, and according to my recollection the man bought one with the other—the one charge included both. In other words, the railroad settled with the sleeping car company.

Q. Do you remember whether an additional charge was made, if a man had a sleeping car ticket, over and above what he would pay if he did not take one? or didn't they sell him otherwise a through ticket excepting with sleeping car coupon? or don't you remember about that?

A. I can't recall that, but I will give you that in a few moments if you want to make a question of it.

Q. It is not very important.

A. I really cannot recollect that.

Q. The testimony has shown here that during the war between the steamship line and the railroad, the railroad did throw in the sleeping car ticket.

A. And afterwards.
Q. I beg your pardon.
A. And afterwards, too.
Q. They did it afterwards?
A. Yes.
7827 Q. And the boat line threw in meals and berth and everything else, in that war?
A. I would not want any man to suspect me of ever having taken that boat trip.
Q. I was going to ask you that question, whether you had ever ridden down on that boat or up on that boat?
A. No. I understand that at certain times of the year it is a very delightful trip, and at other times it is a very naughty one.
Q. You have some scenery on the Shasta route?
A. Yes.
Q. And that was very thoroughly advertised, wasn't it, as an inducement for people to travel by that route?
A. Yes.
Q. And the boat line has some scenery down the Columbia River, and they have some sea weather outside?
A. Yes.
Q. And while you were in charge of the passenger business of the Southern Pacific, as you stated in answer to Mr. Dunne, both lines did business—the rail line the most of the two?
A. Yes.
Q. In passenger business?
A. Yes.
Q. What year did you begin your service there?
A. 1899.
Q. At that time the service was more frequent by boat than it was later, wasn't it? 5 days service then, and afterwards 7?
A. I could not give you that.
Q. This shortening of time of the through train, that you spoke of, to accommodate the Northwestern and the Milwaukee, was a very recent matter—this winter?
A. Well, no. If you would take the trains for the period 1900 to 1910, you will see that they vary. Do you want me to answer direct?
Q. Answer as you like.
A. Taking the time from 1900 to 1910, you will see that
7828 while there is very little variation between the through time, that the time was varied considerably between Omaha and Ogden. I may state that one period, and not very long ago, the lines between Chicago and Omaha demanded 14 hours and 30 minutes on those through trains, and that made us expedite considerably. It may be that during the period you speak of the Northwestern and the Milwaukee were getting this so-called arbitrary between Chicago and Omaha. Latterly they ran those trains in 12 hours for us. At that

time we had 2 hours and 30 minutes more in the card from Omaha to San Francisco, but the through time remained the same.

Q. I took September 1899, simply because it was on your table; I had no other date to take.

A. I know, and I would be quite willing to give you the other date. I think in 1899 we were under agreement with the lines between Chicago and Omaha to allow them 14 hours and 30 minutes.

Q. As I understood you, recently the Northwestern and the Milwaukee by reason of storms, etc., were shot to pieces in Iowa, and they had applied to you for a longer time and you had extended their time an hour?

A. Yes.

Q. And had taken that out of your time?

A. Yes.

Q. So that the present time was shortened up one hour, as I understand it, between Omaha and San Francisco?

A. The present time would be shortened up about an hour.

Q. From what it was last September?

A. Yes. But now they have not as much time allowed them as they had previously, because then they had 14 hours and 30 minutes instead of 13 hours, and then 12.

Q. I understand.

7829 CHARLES S. FEE,

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination by Mr. DUNNE.

Q. Mr. Fee, will you give your name and place of residence, please?

A. Charles S. Fee; San Francisco, California.

Q. Do you occupy any official position with the Southern Pacific Company?

A. Passenger traffic manager Pacific system.

Q. How long have you been passenger traffic manager of the Southern Pacific Company?

A. Since April 1, 1904.

Q. Prior to April 1, 1904, were you in the railroad service?

A. Yes, sir.

Q. In what capacity?

A. From 1874 to 1875 as a stenographer in the office of the general superintendent of the Michigan Central; from 1875 to 1877 as stenographer and clerk in the office of the superintendent and general superintendent of the Hannibal & St. Joseph Railroad, Hannibal, Missouri; from 1877 to about August 1, 1883 I was chief clerk in the office of the general manager of the Northern Pacific Railway at St. Paul, Minnesota; from August 1, 1883, to April 1, 1904, I was

general passenger agent of that line; and from 1904 to the present time, with the Southern Pacific.

Q. What is the so-called Shasta route of the Southern Pacific Company?

A. The rail line between Portland and San Francisco.

Q. When was that opened?

A. December 18, 1887.

Q. What is the character of the passenger traffic on the Shasta route, in a general way?

A. The greater bulk of it is the local traffic passing be-
7830 tween California points and Portland, Oregon, and points in Washington and British Columbia.

Q. With reference to the through traffic, what is the character of that—generally speaking?

A. Very largely made up of excursion business.

Q. Can you give us the prevailing rail rates between Portland and San Francisco by the Shasta route?

A. $25, stop-over, first class rate; $20 limited first class; $15 second class.

Mr. SEVERANCE. What is that stop-over? Do you mean stop-over between Portland and San Francisco?

WITNESS. Tickets that are good for stop-over between Portland and San Francisco. That is the highest rate—$25. $20 first class limited rate does not permit a stop-over.

Q. Can you give us the ocean rates?

A. Between San Francisco and Portland I believe the ocean rate is, first cabin $15, second cabin $10, steerage $5.

Q. Do those rates apply by the North Pacific Coast Steamship Company also?

A. Yes, sir.

Q. What are the rates by the steam schooners?

A. They are nominally, I think, $12, first class—where they have any first class cabin accommodation, and $8 second class; but the rates vary constantly.

Q. Mr. Severance is very much concerned about the question of meals. He wants to know whether that ocean ticket includes meals.

A. The rates of $15, $10 and $5 I think all include meals on the steamer. I presume the schooner rates of $12 and $8 also include berth and meals.

Q. When you spoke of the steam schooner rate being $12 first class and $8 second class, you used the word "nominally." What
7831 was the significance of that word?

A. Simply that I think they make almost any rate that is necessary to take a little of the business.

Q. How often do the steamers sail between San Francisco and Portland?

A. Once a week.

Q. How long does the trip take?

A. From 50 to 60 hours.

Q. How many through trains have you between San Francisco and Portland?

A. Three trains each way a day.

Q. Daily?

A. Yes, sir.

Q. What is the running time of those trains?

A. From 27 to 36 hours.

Q. During your administration of the passenger traffic department of the Southern Pacific Company, to what extent, if at all, have you taken this passenger steamship business into consideration in conducting your own passenger traffic between Portland and San Francisco?

A. Not at all.

Q. Why not?

A. My own judgment was that the business which might seek the ocean route, the longer time, had reasons of its own, and that it would go that way almost regardless of the rate. In the summer season it is a somewhat pleasant journey for some people. Our business was large and satisfactory, and we never in any way recognized the ocean line.

Q. Are these steamship lines a factor in the handling of transcontinental passenger traffic?

A. They have occasionally handled some of the transcontinental round trip business, but not of any moment.

Q. How is it with respect to the through one-way first or second class business.

7832 A. Very little through transcontinental business seeks the ocean line.

Q. You stated that you were general passenger agent of the Northern Pacific for a term of years. Did you make any endeavor to secure for the Northern Pacific via Portland a share of the California passenger business to and from Chicago, St. Louis and the east via the steamer line?

A. Yes, we did make such effort on the opening of the Northern Pacific in 1883.

Q. To what extent did you achieve results as against the direct rail route through Omaha and Ogden?

A. We didn't do any business—very little.

Q. I beg your pardon.

A. Very little, I said.

Q. After the completion of the Shasta rail route, there was a meeting of the Southern Pacific rails at Portland with the Northern Pacific rails out of Portland?

A. Yes, sir.

Q. That gave you a rail route to San Francisco via Portland in contradistinction to the former mixed service that I have just asked you about?

A. Yes, sir.

Q. After those conditions had been realized, after that Shasta rail route had been completed, how did you fare?

A. We were somewhat more successful in securing a small portion of the transcontinental round trip excursion traffic, and also some of the one-way business between the Twin Cities, the head of the Lakes and California points.

Q. What was the character of that business in respect to its volume?

A. Compared with what I think was going through the Missouri River it was very small—maybe one or two per cent. It was very small indeed.

Q. By the way, Mr. Fee, do you recall this $5 rate mentioned in the record, that was made by the Shasta route in the 90's—

7833 I think in 1895?

A. Yes, I remember that about the middle of the 90's there was a rate of $5 between Portland and San Francisco.

Q. Did that affect the through business?

A. Not at all.

Q. In your experience as general passenger agent of the Northern Pacific, between 1883 and 1904, was your line via Portland or the line of the Union Pacific and Short Line via Huntington, Portland and the ocean, considered as a factor of any importance in connection with California passenger traffic?

A. They were not so considered.

Q. Please explain what you mean by that.

A. The amount of traffic that we were able to secure via the longer line was so trifling that I do not think the direct lines between the Missouri River and California points ever took our line into consideration in any shape or form.

Q. Are transcontinental fares from Chicago and the east to California via St. Paul, Portland, and via the Union Pacific, Huntington, Portland and the ocean and the Shasta route practically the same as via Omaha, Ogden and the Southern Pacific direct?

A. Yes, sir, with the exception that the 30 day one-way rate, stopover ticket, and the round trip transcontinental excursion rate were somewhat higher than the direct line rates.

Q. Taking the opening of the Shasta route as a point of departure, how long has that basis prevailed?

A. That basis has always prevailed since 1887.

Q. Are you able to say what percentage of through passenger business between the east and California is carried via Huntington and Portland over the Union Pacific?

A. About 4 per cent, I think.

7834 Q. How would it be with reference to the Denver & Rio Grande and its connections?

A. I think possibly they may have carried one-third or one-half as much as the direct lines—the Union Pacific and Oregon Short Line.

Mr. SEVERANCE. I do not think I quite understand that.

Q. You say that the through passenger business between the east and California via Huntington and Portland over the Union Pacific would be only 4 per cent?

A. About 4 per cent, I think.

Q. Then you said that the Denver & Rio Grande and its connections carried about a half or a third. Do you mean about a half or a third as much as the Union Pacific Short Line via Portland?

A. Yes, sir.

Q. That of course would be still less than 4 per cent, would it not?

A. No, I think they carried about half the amount that I name, which was 4 per cent, as being the travel handled to San Francisco via Portland by the Union Pacific proper and the Oregon Short Line.

Q. Am I correct in assuming that if the Union Pacific and the Short Line carried 4 passengers, the Denver & Rio Grande carried only 2?

A. Not more than 2.

Mr. SEVERANCE. That is, around by that route?

WITNESS. Around by that route. The only information I have is the statement made up by Mr. Erastus Young and the synopsis of that made in my office.

Q. The percentages that you have given are based on the exhibits in the record?

A. Based on the exhibits.

Q. Then I won't take up any further time.

Mr. SEVERANCE. Exhibits that are already in the record?

7835 WITNESS. Exhibits that are already in the record.

Q. These percentages that you have mentioned, do they refer to the passenger business from the Missouri River and east, to California?

A. Missouri River and east.

Q. These are your deductions from the exhibits and the evidence?

A. Yes.

Q. When was the Salt Lake Route opened?

A. May, 1905.

Q. I would like to call your attention to the route via the Salt Lake Line, Daggett and the Santa Fe. What would you say as to a route of that kind being a passenger route between Salt Lake and San Francisco?

A. I would think it was rather an undesirable route.

Q. Why so?

A. Because of the greater distance and longer time—some 261 miles longer, and would require with the closest connection about 9 hours additional travel; no compensation for it—simply carrying the passenger around two sides of a triangle.

Q. Have you the mileage of that Salt Lake Route I called your attention to, by way of Daggett and the Santa Fe?

A. The distance from Salt Lake to San Francisco via Daggett is 1,084 miles.

Mr. SEVERANCE. 1,083 in the record here. It does not make much difference.

Q. As against what?

A. 823 miles, the short line mileage.

Q. About how many more hours travel are involved in that route?

A. About 9 hours.

Q. Take a route from Salt Lake to San Francisco via Daggett, Los Angeles, and then Southern Pacific to San Francisco; what would you say as to that route?

A. It would be somewhat more attractive, but it is 433 miles
7836 longer than the short line, and would require about 15 hours additional time.

Q. How do the rates compare between Salt Lake and San Francisco and Los Angeles?

A. The rate from Salt Lake to Los Angeles, first class 30 day rate, is $35; the first class limited rate is $39. The rate from Salt Lake City to San Francisco by Ogden, first class 30 day rate is $36.10; first class limited rate $31.10.

Q. Salt Lake City to Los Angeles is via the Salt Lake Line?

A. Yes.

Q. That is the rate you are giving. Now with reference to Salt Lake and San Francisco. You gave the rate. What route is that by?

A. I gave the short line rate via Ogden and Southern Pacific.

Q. Oh, that is right. What is the rate via Daggett and the Santa Fe?

A. Salt Lake to San Francisco, $39.25.

Q. And via Los Angeles and the Southern Pacific?

A. The same.

Q. During the time that you have been passenger traffic manager of the Southern Pacific Company, has the rail line between San Francisco and Portland met the rates advertised by the steamer lines?

A. We have not met their rates.

Q. Is that true also with reference to Seattle?

A. That is true also with reference to Seattle.

Cross-examination, by Mr. SEVERANCE.

Q. You say that you were for quite a number of years the general passenger agent of the Northern Pacific?

A. Yes, sir.

Q. Your chief traffic was between St. Paul and North Pacific coast points or intermediate points, wasn't it?

A. Yes.

7837 Q. And a good deal of the way you were competitive, on the through business also, with the Great Northern?

A. For a time.

Q. Yes, for a time, after they got through.

A. The two lines ran parallel.

Q. What are the methods ordinarily employed by passenger departments of railroad companies in securing competitive business? Is it by advertising and solicitation?

A. The efforts of the passenger department are devoted to the building up of the business by advertising and setting forth the attractions of the line and the advantages of the country through which they run, not only appealing to the tourist but to the farmer.

Q. I remember very well your great success on the Northern Pacific, Mr. Fee, and I remember also, if I am not mistaken, that you used to get out a publication called "Wonderland," and you used to get out all sorts of attractive circulars and advertising matter, sent out to induce travel over that line. That was true, wasn't it?

A. Sent out to tell the people what we had in the northwest.

Q. That same class of work, (although, as I remember it, not so successful) was performed by the Great Northern, your competitor, was it?

A. They had a large country to develop, like the Northern Pacific, and they got out a great deal of advertising.

Q. Advertising their line?

A. Advertising their line and their country more particularly.

Q. Now, that is not at all dissimilar to the practices usually in vogue, is it? Of course there are differences in style of adver-
7838 tising, but it is customary for railroads to endeavor to secure passenger traffic; to put out in magazines and newspapers and circulars and folders, and every conceivable way almost, descriptions of their line, the scenery, the places reached, the quality of the equipment, and everything of that kind, in an endeavor to induce travel to go by the line?

A. Yes.

Q. That is in a general way their practice?

A. In a general way it is the practice and effort of the passenger departments of the different roads to build up their own country.

Q. And their own business?

A. And their own business.

Q. To get travel over their line?

A. Yes.

Q. They are undoubtedly public spirited and want to build up the country, but they do not lose sight of the fact that they want to induce travel over their lines of road, to pay their salaries?

A. I think they are all willing to induce travel in every reasonable way.

Q. You were asked a moment ago with reference to this Salt Lake Route by Daggett, which you say would be an undesirable route, because of its length, as compared with the straight line over the Southern Pacific. What is the difference in the mileage between Salt Lake and the Missouri River by the Union Pacific and Short Line on the one hand, and the Denver & Rio Grande and the Rock Island on the other? To Omaha, say.

A. I don't remember the distance in mileage, but it is several hundred miles, I think, in favor of the Union Pacific.

Q. In spite of that handicap, the long line by the C. B. & Q. and the D. & R. G. does a very large business, doesn't it?

A. It does a very large business, yes.

7839 Q. That is shown by the equipment that Mr. McCormick testified moves by that route.

By Mr. DUNNE.

Q. You say there is considerable business moving by the D. & R. G. route?

A. I understand so, yes, sir.

Q. What is the character of that route as a passenger route?

A. It is largely a scenic route.

Q. Is that the route in which the Royal Gorge occurs?

A. Yes, sir. They have advertised its scenic features for many years, and the business has been built up practically on the scenic features of the line.

Q. The Daggett route is a desert, isn't it?

A. Practically so.

By Mr. SEVERANCE.

Q. The Daggett route, so-called, includes that charming bit of scenery known as the Meadow Valley Wash, on the line of the Salt Lake Road, doesn't it?

A. I have heard rumors to that effect, Mr. Severance.

Mr. DUNNE. I think the record ought to show the ironical inflection of counsel's voice when he used the word "charming." I will import that into the record.

Mr. SEVERANCE. I want to say that I took a slow train over the Salt Lake for the purpose of seeing the scenery up through the Meadow Valley Wash, and it is a very beautiful place.

By Mr. SEVERANCE.

Q. There was introduced in evidence in connection with the examination of Mr. Munroe, an agreement between the San Pedro, Los Angeles & Salt Lake Railroad Company and the Southern Pacific Company, dated August 2, 1905, with an amendment dated

7840 January 27, 1906, and in that amendment is this agreement (page 6838 of the record): "Except upon basis of added locals San Pedro Company will not join in rates to or from points north of Mojave and Santa Barbara on any traffic to or from Utah common points and east thereof, provided Southern Pacific give them the benefit of a switching rate of $2.50 per car on Los Angeles freight (within yard limits) to or from points in Colorado, Wyoming, Utah, Idaho or Montana, west and inclusive of Colorado common points and Cheyenne." Have you any agreement like that relating to passenger business, with the Salt Lake Road, by which they preclude

themselves from joining in any rates with the Santa Fe into San Francisco or points north of Mojave and Santa Barbara?

A. We certainly have no such agreement. They do join with the Santa Fe in making rates from Salt Lake via Daggett to San Francisco.

Q. Yes, but the rate they make is $8.15 higher than the Southern Pacific rate, isn't it?

A. Yes, that is a higher rate.

Q. The difference between $31.10 from Salt Lake to San Francisco via Ogden and $39.25 by the combination of the San Pedro and the Santa Fe.

A. They have never met the Short Line rate. I don't know why. There is no obstacle.

Q. Here is an agreement on freight, that they won't do anything except on the basis of added locals. You have no such agreement on passenger business?

A. From Utah common points, the Salt Lake has not applied the Short Line rate, but there is no agreement that they may not so apply it if they see fit.

Q. I wanted to find out whether that extended to passenger business as well as freight. Have you in your possession here the statistics on the passenger movement between Portland and
7841 San Francisco by boat?

A. No.

Q. By the San Francisco & Portland Steamship Company.

A. No; I have no figures showing the traffic on that line.

Q. You have no figures as to that traffic at any time, either present or past years?

A. No.

7842 E. L. LOMAX.

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination by Mr. Loomis.

Q. Please state your residence and occupation.

A. Omaha, Nebraska; general passenger agent of the Union Pacific Railroad.

Q. How long have you been in the railroad business?

A. About forty years.

Q. How long have you been connected with the Union Pacific?

A. Since September 1, 1887, assistant general passenger agent; February 1, 1889, general passenger agent, and in that capacity to date.

Q. I will ask you if you have prepared a statement showing the time of through passenger trains over the Union Pacific westbound as of February 1, 1901.

A. I have.
Q. Is it a correct statement?
A. It is.
The statement produced by the witness was marked Defendants' Exhibit 233, was offered in evidence, and is as follows:

DEFENDANTS' EXHIBIT 233.
(LOMAX)

Time of thro. pass. trains run in February, 1901.

No. 101. Fast Mail.	Colo. Spl.	No. 5. Mail & Express.	No. 3. Pacific Express.	No. 1. Overland Ltd.	
5.30 p. m.		10.00 a. m.	10.30 p. m.	6.30 p. m.	Lv. Chicago.
8.20 a. m.		11.05 p. m.	3.45 p. m.	7.25 a. m.	Ar. Council Bluffs.
8.30 a. m.		11.15 p. m.	3.50 p. m.	7.45 a. m.	Lv. Council Bluffs.
7.35 a. m.					Ar. Green River.*
		11.00 p. m.	9.50 p. m.	9.00 a. m.	Ar. Granger.
7843		11.30 p. m.	10.00 p. m.	9.10 a. m.	Lv. Granger.
		1.00 a. m.	3.30 a. m.	2.00 p. m.	Ar. Ogden.
		1.00 a. m.	1.00 a. m.	1.45 p. m.	Lv. Ogden.
		12.15 noon	12.15 noon	6.45 p. m.	Ar. San Francisco.
		11.20 p. m.	11.20 p. m.	9.35 a. m.	Lv. Granger.
		8.40 a. m.	8.40 a. m.	4.30 p. m.	Ar. Portland.
		10.40 a. m.		6.40 p. m.	Lv. Kansas City.
		6.00 a. m.		11.30 a. m.	Ar. Denver.
		7.30 a. m.		3.45 p. m.	Lv. Denver.
		11.30 a. m.		8.40 p. m.	Ar. Cheyenne.
		12.04 noon		9.09 p. m.	Lv. Cheyenne.
	10.00 a. m.		10.30 p. m.		Lv. Chicago.
	11.05 p. m.		3.45 p. m.		Ar. Council Bluffs.
	11.15 p. m.		3.50 p. m.		Lv. Council Bluffs.
	2.00 p. m.		7.20 p. m.		Ar. Denver.

*No. 101 consolidates at Green River with Overland Limited and Chicago-Portland Special.

7844 Q. Have you prepared a corresponding statement as of February 1, 1910?
A. Yes, sir.
Q. Is it correct?
A. Yes, sir.

The statement produced by the witness was marked Defendants' Exhibit 234, was offered in evidence, and is as follows:

DEFENDANTS' EXHIBIT 234 (LOMAX)

Time of thro pass. trains run in February, 1910.

Colorado Spl. No. 13.	Denver Spl. No. 11.	Oregon & Wash. Ltd. No. 17.	Oregon Ex. No. 5.	China & Japan Fast Mail. No. 3.	Overland Ltd. No. 1.	Lv. Chicago.
.....	.....	10.00 p. m.	10.45 p. m.	10.45 p. m.	7.00 p. m.	Lv. Chicago.
.....	.....	11.55 a. m.	3.05 p. m.	3.05 p. m.	7.20 a. m.	Ar. Council Bluffs.
.....	.....	11.45 a. m.	3.00 p. m.	3.07 p. m.	7.45 a. m.	Lv. Council Bluffs.
.....	.....	1.37 p. m.	11.59 p. m.	12.18 a. m.	11.20 a. m.	Ar. Granger.
.....	.....	.....	.....	12.18 a. m.	11.20 a. m.	Lv. Granger.
.....	.....	.....	.....	5.45 a. m.	4.30 p. m.	Ar. Ogden.
.....	.....	.....	.....	6.40 a. m.	4.50 p. m.	Lv. Ogden.
.....	.....	.....	.....	2.48 p. m.	7.28 p. m.	Ar. San Fran.
.....	.....	1.40 p. m.	12.04 a. m.	.....	.....	Lv. Granger.
.....	.....	8.00 p. m.	10.30 a. m.	.....	.....	Ar. Portland.
.....	.....	6.00 p. m.	10.05 a. m.	10.05 a. m.	10.15 p. m.	Lv. Kansas City.
.....	.....	12.05 p. m.	6.30 a. m.	6.30 a. m.	4.05 p. m.	Ar. Denver.
.....	.....	5.15 p. m.	7.30 a. m.	7.30 a. m.	7.05 p. m.	Lv. Denver.
.....	.....	9.35 p. m.	10.45 a. m.	10.45 a. m.	10.25 p. m.	Ar. Cheyenne.
.....	.....	11.45 p. m.	11.00 a. m.	11.00 a. m.	11.45 p. m.	Lv. Cheyenne.
10.30 a. m.	6.00 p. m.	.....	.....	.....	.....	Lv. Chicago.
11.00 p. m.	6.07 a. m.	.....	.....	.....	.....	Ar. Council Bl.
				No. 15.		
11.18 p. m.	6.17 a. m.	.....	.....	3.17 p. m.	.....	Lv. Council Bl.
1.30 p. m.	8.30 p. m.	.....	.....	7.35 a. m.	.....	Ar. Denver.

7845 Q. Have you prepared a statement showing equipment of Union Pacific through passenger trains as of February 1, 1901?

A. Yes, sir.

Q. Is it correct?

A. Yes, sir.

The paper produced by the witness was marked Defendants' Exhibit 235, was offered in evidence, and is as follows:

DEFENDANTS' EXHIBIT 235 (LOMAX).

EQUIPMENT PASSENGER TRAINS ON FEBRUARY 1ST, 1901.

Train No. 1, Overland Limited.

Council Bluffs through double Drawing-room Pullman Palace Sleeping Cars Chicago and Council Bluffs to San Francisco via C. & N. W., U. P. & S. P., connecting at Port Costa with Pullman Palace Sleeping cars to Los Angeles. Connection made en route with Pullman Palace Sleeping cars to Salt Lake City. Dining car service Chicago and Council Bluffs to Ogden and San Francisco. Buffet smoking and Library Car with barber shop, Chicago and Council Bluffs to San Francisco. Double Drawing-room Pullman Palace Sleeper and dining car service, Chicago and Council Bluffs to Portland via C. & N. W., U. P., O. S. L., and O. R. & N. Buffet, smoking

and library car with barber shop Chicago and Council Bluffs to Granger and Granger to Portland. Pullman ordinary sleeper and free reclining chair car Chicago and Council Bluffs to Portland.

Overland Limited from Kansas City.—Day Coach Kansas City to Denver. Denver to Cheyenne, free reclining Chair Car
7846 and Pullman Sleeper Kansas City to Denver. Pullman Sleeper Denver to Salt Lake City. Connection made enroute with Pullman Sleeper for San Francisco, Butte and Portland.

Train No. 3, Pacific Express.

From Council Bluffs and Omaha.—Drawing-room Pullman Palace Sleeping Car Chicago and Council Bluffs to Ogden and San Francisco via C. & N. W., U. P. & S. P., Pullman ordinary Sleeping Car Chicago and Council Bluffs to San Francisco. Connection made at Sacramento with annex Sleeping Car to Los Angeles. Personally conducted ordinary sleeping car every Tuesday and Thursday from Chicago and every Friday from Council Bluffs and Omaha to Los Angeles. Connections made at Green River with Pullman Palace Sleeper. Free reclining Chair Car, Pullman ordinary sleepers to Portland via O. S. L. & O. R. & N. Co. Free reclining and scarrett seat coach Chicago and Council Bluffs to Ogden. Dining Car Chicago and Council Bluffs to North Platt. Pullman Palace Sleeping Car Chicago and Council Bluffs to Denver. Chair Car Chicago and Council Bluffs to Denver.

From Kansas City.—Pullman Palace Sleeping Car Kansas City to Salt Lake City, connecting en route with Palace Sleeping Car for San Francisco. Connection made with Palace Sleeper for Portland. Free reclining Chair Car. Dining Car Service Kansas City to Denver. Day Coach Kansas City to Denver and Cheyenne to Salt Lake City. Free reclining Chairs Kansas City to Cheyenne and Denver to Salt Lake City. Pullman ordinary Sleeping Car Kansas City to Portland connection en route with Pullman ordinary
7847 Sleepers for San Francisco.

From Denver.—Day Coach to Ogden and San Francisco. Pullman Palace Sleeping Car to Salt Lake City, connecting with Pullman Palace Sleepers for San Francisco and Portland. Pullman ordinary Sleepers Denver to Portland, connecting enroute with ordinary Sleepers for San Francisco.

Train No. 101, Fast Mail

From Council Bluffs.—Mail and Baggage Cars. Free reclining Chair Cars Council Bluffs to Green River where train consolidated with No. 1, Overland Limited and Chicago-Portland Special.

Train No. 5, Mail and Express

From Council Bluffs and Omaha.—Pullman Palace Sleeping car Chicago and Council Bluffs to Portland via C. & N. W., U. P.,

O. S. L. and O. R. & N. Free reclining Chair Car Chicago and Council Bluffs to Portland. Buffet, Smoking and Library Car Chicago and Council Bluffs to Ogden. Dining Car service Chicago and Council Bluffs to Ogden. Connection made at Green River with Pullman Palace Sleeper and Pullman ordinary Sleeper for San Francisco. Personally conducted Pullman ordinary Sleeping Car every Wednesday from Minneapolis and St. Paul to Los Angeles.

Colorado Express

From Council Bluffs and Omaha.—Pullman Sleeping Cars. Free reclining Chair Car. Pullman Dining Car. Buffet, Smoking and Library Cars. Scarrett Seat Coach Chicago and Council Bluffs to Denver.

7848 Q. Have you prepared a corresponding statement of the equipment of through Union Pacific passenger trains as of February 1, 1910?

A. Yes, sir.

Q. Is it correct?

A. Yes, sir.

The statement produced by the witness was marked Defendants' Exhibit 236, was offered in evidence, and is follows:

DEFENDANTS' EXHIBIT 236

(LOMAX)

FEBRUARY 1st, 1910.

Train No. 1—San Francisco "Overland Limited."

Composite Observation Car Omaha to San Francisco and Denver, via U. P. and So. Pac. Pullman Drawing-room Sleeping Cars Chicago to San Francisco, via C. & N. W., U. P. and So. Pac.; via C. M. & St. P., U. P. and So. Pac. Dining Car Service Omaha to San Francisco.

Picking up at Cheyenne Pullman Drawing-room Sleeping Car Kansas City to San Francisco. Interstate passengers carried only.

Train No. 3—China and Japan Fast Mail

From Council Bluffs and Omaha. (Daily.)—Pullman Drawing-room Sleeping Cars Chicago to San Francisco, via C. & N. W. and C. M. & St. P., U. P. and So. Pac.; Cheyenne to Salt Lake City (from St. Louis). Pullman Tourist Sleeping Cars Chicago to San Francisco and Los Angeles, via C. & N. W. and C. M. & St. P., U. P. and So. Pac. Personally conducted Tuesday and Thursday from Chicago, and Wednesday and Friday from Omaha. Day Coach

Council Bluffs and Omaha to Ogden. Dining Car Service Chicago to San Francisco.

7849 *From Kansas City and Denver.* (Daily.)—Pullman Drawing-room Sleeping Car St. Louis to Denver and Salt Lake City. Free Reclining Chair Car Kansas City to Denver and Salt Lake City. Dining Car Service Kansas City to Ellis. Day Coaches Kansas City to Denver and Cheyenne, and Kansas City to Salina.

From Leavenworth. (Daily, except Sunday.)—Motor Cars Leavenworth to Lawrence; same equipment from Lawrence as from Kansas City.

Train No. 5—The Oregon and Washington Express.

Pullman Drawing-room Sleeping Car Chicago to Portland, via U. P., O. S. L. and O. R. R. & N. Co. and Pullman Drawing-room sleeper Omaha to Cheyenne (open at 10:30 p. m). Pullman Tourist Sleeping Car Chicago to Portland, via U. P., O. S. L. and O. R. R. & N. Co. Chair Car Chicago to Portland. Observation Car Chicago to Portland. Pullman Tourist Sleeper Kansas City to Portland (from Kansas City on No. 109). Day Coach Council Bluffs to Portland. Dining Car Service Chicago to Portland.

Train No. 17—The Chicago-Portland Special—Electric lighted.

Composite Observation Car Chicago to Cheyenne, Observation Sleeping Car Cheyenne to Portland. Pullman Drawing-room and Compartment Sleeping Car, Pullman Tourist Sleeping Car and Chair Car Chicago to Portland, via C. & N. W., U. P., O. S. L. and O. R. & N. Co

Picking up at Cheyenne Observation Sleeping Car St. Louis to Portland, via Wabash, U. P., O. S. L. and O. R. & N. Co.

7850 *Train No. 11—The Denver Special.—Electric lighted.*

From Council Bluffs and Omaha. (Daily.)—Pullman Drawing-room Sleeping cars, Observation Sleeping Car. Free Reclining Chair Car Chicago and Council Bluffs to Denver, via C. & N. W. and U. P.

Train No. 13—The Colorado Special.—Electric lighted.

Pullman Sleeping Car, Chair Car, Observation Car and Dining Car Chicago to Denver. Observation Car Omaha to Denver.

Train No. 15—The Colorado Express.

From Council Bluffs and Omaha. (Daily.)—Pullman Drawing-room Sleeping Cars Chicago to Denver, via C. & N. W. and C. M.

& St. P. and U. P. Pullman Tourist Sleeping Cars, daily, Omaha to Denver. Free Reclining Chair Cars Chicago to Denver, via C. & N. W., and C. M. & St. P. and U. P. Dining Car Service Chicago to Denver.

Train No. 101—St. Louis-Colorado Limited.

Observation Sleeping Car St. Louis to Portland (west of Cheyenne on No. 17). Pullman Drawing-room Sleeping Car St. Louis to San Francisco (west of Cheyenne on No. 1). Pullman Drawing-room Sleeping Car Kansas City to San Francisco (west of Cheyenne on No. 1). Chair Car St. Louis to Cheyenne and Kansas City to Cheyenne. Dining Car Service St. Louis to Cheyenne.

Train No. 109—The Denver Limited.

Chair Cars and Coaches Kansas City to Denver and Cheyenne. Tourist Sleeping Cars Kansas City to Portland (on No. 5 west of Cheyenne). Pullman Drawing-room Sleeping Car and Dining Car Kansas City to Denver.

7851 Q. Have you prepared a statement showing a comparison of through time of Union Pacific through passenger trains as of February 1, 1901, and 1910?

A. Yes, sir.

Q. Is it correct?

A. Yes, sir.

The paper produced by the witness was marked Defendants' Exhibit 237, was offered in evidence, and is as follows:

DEFENDANTS' EXHIBIT 237.

(Lomax.)

Comparison of through time Febg. 1st, 1901 and 1910.

TO SAN FRANCISCO

	No. 1.		No. 3.	
	1901.	1910.	1901.	1910.
Council Bluffs.....Lv..	7.45 a. m.	7.45 a. m.	3.50 p. m.	3.07 p. m.
Ogden.....Ar..	2 p. m.	4.30 p. m.	3.50 a. m.	5.45 a. m.
Ogden.....Lv..	4.45 p. m.	4.50 p. m.	4 a. m.	6.40 a. m.
San Fran.....Ar..	6.45 p. m.	7.28 p. m.	12.15 Noon.	2.48 p. m.
	61 hrs.	61h 43m.	70h 25m.	73h. 41m.

Comparison of through time Feby. 1st, 1901 and 1910—Continued.

TO LOS ANGELES.

	No. 7-17-1910.
Council Bluffs.....Lv..	12.15 p. m.
Ogden.....Ar..	6.35 p. m.
Ogden.....Lv..	6.55 p. m.
Los Angeles.....Ar..	8 p. m.
	57h. 45m.

TO DENVER.

	No. 3, 1901.	No. 15, 1910.	Col. Spl., 1901.	C. & N. W., No. 11.	C. M. & St. P. No. 13.
				1910.	
Council Bluffs.....Lv..	3.50 p. m.	3.17 p. m.	11.15 p. m.	6.17 a. m.	11.18 p. m.
Denver.....Ar..	7.30 a. m.	7.35 a. m.	2 p. m.	8.30 p. m.	1.30 p. m.
	16h. 40m.	17h. 58m.	15h. 45m.	15h. 13m.	15h. 12m.

7852 TO DENVER FROM KANSAS CITY.

	No. 101.		No. 5.	No. 103.	No. 105.
	1901.	1910.	1901.	1910.	1910.
Kansas City.....Lv..	6.40 p. m.	10.15 p. m.	10.40 a. m.	10.05 a. m.	6 p. m.
Denver.....Ar..	4.45 p. m.	7.05 p. m.	6.30 a. m.	6.30 a. m.	12.05 p. m.
	23h. 5m.	21h. 50m.	20h. 50m.	21h. 25m.	19h. 5m.

TO PORTLAND.

	No. 1.	No. 17.	No. 5.	No. 5.
	1901.	1910.	1901.	1910.
Council Bluffs.....Lv..	7.15 a. m.	11.15 a. m.	11.15 p. m.	3 p. m.
Granger.....Ar..	9 a. m.	1.37 p. m.	11 p. m.	11.59 p. m.
Granger.....Lv..	9.35 a. m.	1.40 p. m.	11.20 p. m.	12.04 a. m.
Portland.....Ar..	4.30 p. m.	8 p. m.	8.40 a. m.	10.30 a. m.
	58h. 15m.	58h. 15m.	59h. 25m.	69h. 30m.

7853 Q. I wish you would state generally how the through passenger service on the Union Pacific as of February 1, 1910, compares with the through passenger service as of February 1, 1901.

A. Very favorably.

Q. Explain fully what you mean by that.

A. The passenger service of 1910 as compared with that of 1901?

Q. Yes.

A. 1910, February, makes a very favorable showing with 1901.

Q. I want you to say what you mean by that.

A. In this way: that in February, 1910, we had more passenger trains, bigger and larger engines, more heavy rail, more steel bridges, more safety appliances; in fact our line was equipped with block signals and interlocking switches. As regards equipment, it consisted of steel cars, steel day coaches, chair cars, dining cars, baggage cars, observation cars, and the improvements in the equipment were of this character. Take the standard Pullman sleeper in use February 1, 1910, as compared with the character of sleeper in use in 1901, and we had added to it electric berth-lights; we had also added to it the very latest up-to-date sanitary conveniences in the toilet rooms. Take the dining cars. In 1910 they were equipped with the very best of modern up-to-date kitchens, cold-storage closets, and were larger cars. Our chair cars in 1910 were larger than those in 1901 and had a smoking compartment in them for the convenience of the traveling public. In those respects the service of itself was very much better. Compared with the number of passenger trains, I will take the electric lighted service for instance. In 1901 we had in
the San Francisco service two electric lighted trains, one in
7854 each direction. February 1st, 1910, in addition to those two
trains in the San Francisco service we had two electric lighted trains to Portland, one in each direction. We had two electric lighted trains for Los Angeles, although they were temporarily suspended on account of the wash-out on the San Pedro road.

Q. At what time?

A. I think the wash-out occurred about January 3rd or 4th; I am not sure as to the date, but it was in the early part of January. That train will go back into service as soon as the connections are again made. With regard to the Denver service, we had four electric lighted trains from Council Bluffs (starting at Chicago) to Denver, one train in each direction—two over the Northwestern and two over the Milwaukee & St. Paul.

Q. How many between Council Bluffs and Denver?

A. Four.

Q. Two in each direction?

A. Two in each direction; that is, one for the Northwestern in each direction and one for the Chicago, Milwaukee & St. Paul in each direction. From St. Louis, two electric lighted trains via Kansas City to Denver, one in each direction.

Q. You spoke of the steel equipment. Did you mean to say that all of the equipment now being used in the through trains is steel?

A. Yes, sir. In fact, the steel equipment, as I understand, is to be our standard on all trains, but we take care of the through trains first.

Q. If the time on some of the through passenger trains was not as good on February 1, 1910, as on February 1, 1901, I wish you would explain why?

A. There were two trains in 1901 which had faster time—only a few minutes—train No. 1 and train No. 3.

7855 Q. I do not care to have you go into the details of the time. All I care to have you do is to give the reasons. I think the time has been given fully in the record already.

A. The reason for it was this: The conditions in 1910 were different from what they were in 1901.

Mr. SEVERANCE. I do not believe Mr. Loomis wants that answer to stand—"only a few minutes". I think the witness misspoke, because one of them is 3 hours and 10 minutes, on the face of his own exhibit, Defendants' Exhibit 237. I just suggest that. I am sure he would not want to make a misstatement about that.

WITNESS. I will explain this with your permission, that the comparison I made is the west bound train from Council Bluffs to San Francisco and to Portland, Council Bluffs to Denver, and Kansas City to Denver, in contradistinction to the Chicago and Omaha figures that have been put in.

Mr. SEVERANCE. The reason I call your attention to it is that on the face of Defendants' Exhibit 237 you show a difference of over 3 hours. I think you misspoke when you said a difference of "only a few minutes".

Q. What train did you have in mind when you spoke of a few minutes?

A. For instance, No. 1, in 1901, from Council Bluffs to San Francisco, was 61 hours; in 1910 it was 61 hours and 43 minutes—a difference of only 43 minutes from Council Bluffs to San Francisco.

Q. That is what you had in mind in making the reference you did?

A. Yes. On a long run, 43 minutes is only a short difference.

Q. Now go ahead and explain the reasons why any of the
7856 trains are not as fast as they were in 1901.

A. The conditions in 1910 were such that we had to wait for connections, which we did not do in 1901. For instance, with our through train to the coast, that is, both to Portland and to San Francisco now, we would wait for the Northwestern Railroad and for the Chicago, Milwaukee & St. Paul, and it was a regular thing that five out of every seven days one of those two roads was late—late from 15 minutes to two hours and frequently 7 to 8 hours. So that the starting of these trains from Council Bluffs depended upon the arrival of those connections which was not the case in 1901.

Q. Did you try to make up as much of that time as possible on the Union Pacific?

A. Yes. And that was the reason why we lengthened out the schedule. Having these various delays from connections, it was very desirable to have such lee-way or elasticity in the passenger schedules of these trains that we could make up the lost time—the time which

was lost waiting for connections. And we had another source of delay; slow orders, on account of construction that was still going on along the line.

Q. You refer to the reconstruction of the road?

A. Double-track now mainly; there is some little reconstruction.

Q. Are there any other reasons?

A. Yes; weather bothers us sometimes.

Q. What about the density of the traffic in 1910 as compared with 1901?

A. The traffic is much heavier in 1910 than it was in 1901; I would say the traffic is almost half as much again.

Q. Did you ever attempt to work any passenger business to San Francisco through Huntington and Portland and the boat from Portland down to San Francisco?

A. Yes, sir.

7857 Q. When?

A. When I first went to Omaha, I think it was in 1887 or 1888, we tried to send passenger business by way of the Short Line and Huntington to Portland, and then from Portland to San Francisco by boat. But the route was so much longer, the boats were so irregular, I think about one sailing in four or five days, and the capacity of the boats so small, that the travelling public simply would not have it, and we stopped the effort, and made no further attempt. Three or four months was the period we tried to send business that way.

Q. Can you state about what proportion of the passenger traffic going to San Francisco via Huntington and Portland, goes via the rail lines, and what proportion goes via the rail and water line?

A. I should say that 99 per cent of our passenger business over the Union Pacific goes to California by rail—almost all of it.

Q. You mean that portion of it which goes to California via Portland, 99 per cent of it goes all rail?

A. Yes—and that is small.

Q. And the other portion.

A. And the other through Ogden to——

Q. I am not speaking of that. You say 99 per cent would go via rail. Would the other 1 per cent go down via boat?

A. Yes, sir.

Cross-examination by Mr. SEVERANCE.

Q. Mr. Lomax, you observe, do you not, by your exhibit 237 that train No. 5 to Portland is 10 hours longer now than it was in 1901?

A. No, sir.

Q. Well, 10 hours and 5 minutes?

A. No. 17, which is our new 1910 train, for Portland, is making the run in 57 hours and 45 minutes from Council Bluffs. No.

7858 I will take that back. 58 hours and 15 minutes.

Q. Will you have the kindness to answer my question? I have not asked you anything about train No. 17. I asked you if it

is not a fact that train No. 5 to Portland, which you say made the run in 1901 in 59 hours and 25 minutes, is not now 69 hours and 30 minutes, or a difference of 10 hours and 5 minutes longer now than it was 9 years ago? That is right, isn't it?

A. No, sir.

Q. Then, your figures are wrong because you have got it figured that way right here—59 hours and 25 minutes as against 69 hours and 30 minutes.

A. No, sir.

Q. Well, I will let your counsel read the figures, if you say that is not correct.

A. There is an explanation I would like to make there.

Mr. LOOMIS. Go ahead and make your explanation.

WITNESS. We are speaking now of the character of trains, I assume?

Q. I am not speaking of anything, Mr. Lomax, except the question I put to you—as to whether train No. 5 is 10 hours and 5 minutes slower now than it was February 1, 1901. That is the question I am asking you, and that is the only question.

A. It is not the same train. I want to explain that.

Mr. LOOMIS. Go ahead and explain it.

WITNESS. The No. 5 shown in that statement under 1910 is known as 3–5; it does not correspond with No. 5 as shown in 1901. The corresponding train to No. 5 in 1901 is now No. 17. I admit that the numbers appear the same on the statement, but the character of the train does not correspond.

Q. What train in 1901 did correspond to train No. 5 in 1910?

A. No train.

7859 Q. How much shorter is your line to Portland now than it was in 1901?

A. I think it is about 18 to 20 miles; I am not sure.

Q. It is in better physical condition?

A. Very much better physical condition now.

Q. Why do you not shorten up your time, then, if you have got a shorter line?

A. On account of waiting for connections, slow orders, and construction that is still going on.

Q. When did you shorten your time last? You show here much shorter time February 1, 1910, than Mr. McCormick showed September 1, 1909, on the Overland Limited, for instance. When did you shorten that up?

A. I think the time was shortened January 16 last.

Q. How much was it shortened at that time?

A. I should say about an hour and a half to two hours.

Q. You said in answer to Mr. Loomis that a difference of 43 minutes, which is the amount of time that the Overland is longer now than it was in 1901, is a small matter on a long run. Your run is not as long by 90 miles as it was in 1901, is it?

A. No, sir.

4709

Q. Was shortening your line 90 miles a matter that you would regard as of any importance in the length of time it would take to make the run?

A. Not in view of the difficulties under which we are still laboring with that train; delay on account of connections, lost time on that account, and for the construction work that is still going on.

Q. You are working pretty hard up there in the mountains on construction work this winter, are you?

A. Well, we are all the time.

7860 Q. Got your track all torn up this winter, haven't you,—and 40 below zero up there in Wyoming?

A. Not all, no; certainly not.

Q. Well, have you any?

A. Yes.

Q. Where?

A. That I cannot tell you. We are putting in double-track and we are putting in steel bridges right along.

Q. And the fact that you are laying double-track up there this winter and are building some steel bridges this winter, delays your train does it?

A. Yes, sir.

Q. You are familiar with the operating side of the business as well as the traffic side, are you?

A. No, sir.

Q. So, you would not be able to explain how it is that you are being delayed by those facts?

A. I don't think it requires any very great explanation. Everybody knows that when you have construction of any kind, whether laying double-track or tearing the track up, or building a cut-off, that your slow orders will prevent you making any fast time over the track.

Q. How on January 16th were you able to shorten up the Overland time two hours, when you were laboring under those terrible difficulties?

A. We simply made the experiment. We found out afterwards, as our schedules were made, that they were entirely too fast, and that on account of the delays we were subject to there was no use in our trying to make a performance which we could not carry out.

Q. Then you only regard this shortening as a temporary matter, because you find the schedules too fast, do you?

A. Yes, sir.

Q. So you have got to lengthen them out again?

A. As long as this work continues.

Q. Then, that is not a showing of any practical importance in the case, is it,—if it is only a mere temporary affair?

(No response.)

7861 By Mr. LOOMIS:

Q. Referring to the lengthening out you have just testified to, what period of time did you have in mind when you were testifying in regard to the necessity of lengthening out the schedules?

A. Most of the change in the mileage was accomplished before 1901—the shortening, but the other work has kept up constantly, and we have as much of that going on as we had in 1901.

An adjournment was here taken until the morning of Monday, March 7, 1910, at 10.30 o'clock.

7862 ROOM 720, CUSTOM HOUSE, NEW YORK CITY,
Monday, March 7, 1910—10.30 A. M.

The hearing was resumed before the Special Examiner, Hon. Sylvester G. Williams, at the above time and place.

Present: On behalf of the Complainant, Mr. C. A. Severance; on behalf of the Defendants, Mr. Peter F. Dunne, Mr. N. H. Loomis, and Mr. Paul D. Cravath.

OTTO H. KAHN.

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct-examination by Mr. DUNNE.

Q. Mr. Kahn, where do you reside?
A. I reside in Morristown, New Jersey.
Q. What is your business?
A. I am a banker.
Q. Are you a member of any banking firm or house?
A. I am a member of the firm of Kuhn, Loeb & Company.
Q. How long have you been a member of that firm?
A. Since 1897.
Q. Do you recall the period of the reorganization of the Union Pacific Railroad Company?
A. I do.
Q. Taking the reorganization of the Union Pacific as a point of departure, did you bear any official relation to the reorganized company as a member of its directorate?
A. I was a member of its directorate and a member of its executive committee for a number of years.
Q. When did you first become a member of the Board of Directors?
A. The record will show; I think it was in 1898.
Q. When did you cease to be a director?
7863 A. I ceased to be a director late in 1905 or early in 1906; I am not absolutely sure.

Q. During how much of the time of your service as a director of the Union Pacific were you a member of the executive committee?

A. The entire time.

Q. A resolution has been put in evidence in this case, a resolution of February 20, 1901 (I think that is the date), a resolution by the board of directors of the Union Pacific Railroad Company for the issue of $100,000,000 of convertible bonds. You are generally familiar with the fact that there was such a resolution?

A. I am quite familiar with it.

Q. To what extent were those bonds subscribed for by the stockholders, in round figures?

A. The first $40,000,000 of them were offered to the stockholders, and I should say, roughly, 75 per cent were taken by the public; the second $60,000,000 were bought by my firm, direct.

Q. Were the second $60,000,000 offered to the stockholders for subscription?

A. No.

Q. Do you recall the circumstance of the death of Mr. C. P. Huntington in August, 1900?

A. Yes.

Q. Were you advised or apprehensive of any movement by interests other than the Union Pacific in the direction of acquiring Southern Pacific stock after his death?

A. We were apprehensive of that.

Q. Can you say to what extent, if at all, any negotiations had been set on foot prior to the death of Mr. Huntington looking to a closer and more permanent relation between the Union Pacific and the Southern Pacific?

7864 A. Yes. Mr. Harriman and the executive committee had realized——

Mr. SEVERANCE. Pardon me a moment, Mr. Kahn. I think it will be fair for Mr. Kahn to understand that it would not be proper for him to testify to any statement made to him by Mr. Harriman or any other person. He should testify as to his own knowledge. He was starting out, apparently, to give some apprehension that existed in the mind of Mr. Harriman, which, of course, would not be evidence.

Q. Proceed.

A. As I say, the members of the executive committee realized some time before Mr. Huntington's death the vital importance to the Union Pacific of a continuation of its old established relations with the Southern Pacific. The entering of a hostile influence into the Southern Pacific, to the extent of controlling it, might have brought with it (in all likelihood would have brought with it) very dangerous consequences to the Union Pacific inasmuch as it related to the Union Pacific's free access to San Francisco, for which it had used the Central Pacific for many years. So much so that Mr. Harriman, in the last year or two of Mr. Huntington's life, made every endeavor to arrange definite relations with Mr. Huntington

so as to assure for all times the permanence and the unaltered relation between the Union Pacific and the Southern Pacific as far as the use of the Central Pacific line was concerned; and in fact he offered to Mr. Huntington, on behalf of the Union Pacific, to buy the Central Pacific alone, if a way could be found to separate it from the rest of the Southern Pacific system. That was declined. And there were also declined all other overtures on the part of Mr. Harriman looking to a permanent and definite and un-
7865 alterable relationship between the Union Pacific and the Central Pacific. When Mr. Huntington died the situation became even more threatening, in that we were advised that there were other influences attempting to purchase the Southern Pacific. Therefore, when opportunity presented itself to acquire control, or something approximating control, of the Southern Pacific, the Union Pacific people gladly availed themselves of the opportunity. And they did that because of the vital importance of the connecting feature of the Southern Pacific as represented by the Central Pacific, which gave to the Union Pacific access to the coast at San Francisco, and also the valuable element of the feeding lines in California, north and south.

Q. In the purchase of the Southern Pacific stock, under the circumstances that you have described, was the circumstance that the Southern Pacific was engaged in some local business—I use "local" in respect to the Pacific coast and more particularly the northwest—some local business to Oregon points or neighboring points in Washington, Idaho, and Montana—was the circumstance that the Southern Pacific might have been engaged in some local business of that character ever considered or discussed in the transaction of that stock purchase?

A. That was so negligible an influence that I did not even know of it.

Q. Was such a thing ever mentioned in connection with the stock purchase?

A. That thing was never mentioned, as far as my knowledge as a member of the executive committee went, of the relations between the Southern Pacific and the Union Pacific. It was almost exclu-
sively the element—in fact I can say exclusively the element—
7866 of the connection to the coast which entered our minds; and the existence of the Sunset-Route not only was no inducement to us to buy the Southern Pacific, but it was by us considered an obstacle and a deterring feature, because we did not care for the Sunset Route, we would have been glad to be relieved from it. If a way could have been found to secure the Central Pacific alone, we all would have preferred it at that time. As a local feature the competition was considered so negligible that, so far as my knowledge goes, it was not even considered at any of the executive committee meetings at which the subject was brought up.

Q. It appears—and I might just as well mention this in connection with Oregon—that there was some Asiatic or Oriental business

through the port of Portland, the Southern Pacific engaging in Oriental business through the port of San Francisco. Was that subject-matter ever considered, discussed or mentioned?

A. It was never considered, discussed or mentioned.

Q. There is also some evidence that the Morgan Line of steamships from New York to New Orleans, in connection with the rail lines, carried some business to Utah points and some business to Colorado points, and that the Union Pacific was also engaged in some business to Colorado points and to Utah points. Was the existence of any business by either company in respect to Colorado and Utah points ever considered, discussed or even mentioned in this stock transaction?

A. That was of no influence whatever in our minds. It was never considered, discussed or even mentioned.

Q. Recurring for a moment to the $100,000,000-convertible bond resolution. Was the circumstance that $40,000,000 of the pro-
7867 posed issue were specifically appropriated to the purchase of Southern Pacific stock, while the application of the remaining $60,000,000 was left undesignated—was there anything special or peculiar to that transaction in that circumstance?

Mr. Severance. I object to that as merely speculative.

Witness. I know the facts of the case exactly, Mr. Severance, because I had a large part in discussing and determining upon that issue, and I know exactly what was in our minds in concluding that that issue should be made $100,000,000; although at that time only $40,000,000 were needed to pay for Southern Pacific stock, and I am quite willing to disclose it, if I may.

Q. Please proceed, Mr. Kahn.

A. At the time that issue of convertible bonds was authorized, the immediate requirements of the company, the $40,000,000 for the purchase and for the payment of $75,000,000 of Southern Pacific stock——

Q. Pardon me; 750,000 shares par value.

A. Yes. That was early in February. The authorized issue was made $100,000,000, notwithstanding the fact that for immediate purposes only $40,000,000 were required. There were a number of reasons for making that issue $100,000,000. The first reason, the general reason, which was particularly a reason inherent in Mr. Harriman's manner of conducting the financial affairs of the company, was that he invariably asked for authority for a larger issue of securities than were immediately needed. That was so in the case of the Oregon Short Line Participating Bonds, where $82,000,000 were authorized and only $31,000,000 were immediately needed; in the case of the Oregon Short Line Refunding 4's, where $100,000,000
were authorized and only $4,000,000 were immediately needed.
7868 In the case of the Southern Pacific preferred stock there were $100,000,000 authorized and only $40,000,000 immediately needed. And it has been similarly done very frequently in the case of other railroads, such as the Norfolk & Western, the Pennsylvania,

the Atchison, all of whom, as a measure of convenience and as a measure of precaution, when going to their stockholders and asking for authority for a new issue, ask for a great deal more than was immediately needed. That was the first reason. The second was that at that time there were reports—very definite reports—that the Hill interests were going to acquire the Burlington. Mr. Harriman was quite clear in his mind, and so were we all quite clear in our minds, that if the Burlington were acquired by interests antagonistic to the Union Pacific, one of two things would happen: the Union Pacific would go and ask for representation for a share in that purchase, so as to leave the existing situation as between the Burlington and the Union Pacific undisturbed. If it got it, well and good. If it did not get it, it would fight—it would protect itself as best it could against what it considered a danger. And for that purpose money was required to face a situation which, in Mr. Harriman's mind, it was quite clear, would lead to one of two things: either he would be given a share in the Burlington, in which case he would need money to pay for his share; or he would not be given a share in the Burlington, in which case he would fight, and for fighting he would not know in exactly what way and where the fight would take place, how he would use his money, but he knew he would use his money for attack and defense; and when a man prepares for such a fight, or makes such a fight, what he needs is brains and cour-
7869 age and money. Mr. Harriman did not need to provide himself with brains and courage, for he always had those at his disposal, but he did need to provide himself with money in anticipation of a possible use for it, in a situation created not by his own volition, but created by others, and which he felt threatened and endangered the interest of the Union Pacific and must be guarded against.

Q. Let me ask you at this point whether any steps had been taken or overtures made, on the part of the Union Pacific, or Mr. Harriman representing the Union Pacific, towards the acquisition of any stockholding in the Burlington, in 1900?

A. Yes. In 1900, for the first time Mr. Harriman conferred with us as to the great importance of maintaining the existing relations—existing relations of competition and existing relations of feeding, I might say—between the Burlington and the Union Pacific, and as to the danger to the Union Pacific if a hostile interest acquired control of the Burlington. The Burlington in many ways was a very valuable business customer to the Union Pacific; in some ways it was a competitor but in many important ways it gave business to the Union Pacific. Mr. Harriman and we felt that that relationship should be continued. The Burlington, whilst an active competitor, was a fair competitor, with conservative management, and we had been able for many years to get along with it and live with it as active competitors but as fair competitors. Mr. Harriman and we received information that the people who were then in active control of the Burlington,

mainly New England people, were thinking of retiring from the active management. Mr. Harriman, with our knowledge, en-
7870 tered into negotiations with them for the purchase of their holdings, which, if I remember rightly, amounted to something like 10 or 15 per cent of the total of the Burlington stock. They asked too high a price to suit Mr. Harriman, and nothing came of his negotiations at the time. But the subject of preserving the Burlington independent, as it then was, was a matter of anxious thought and of anxious consideration as early as the beginning of 1900.

Q. When you say the beginning of 1900, do you point to that as the time when these early negotiations, the acquisition of an interest in the Burlington, were contemplated and made?

A. They were made and continued throughout 1900.

Q. Beginning how early?

A. I could not remember the exact dates, but they took place, off and on, from the beginning of 1900 until Mr. Harriman left—I think for Alaska; anyway, he was away from New York for quite a time.

Q. During that year 1900 and prior thereto what had been the attitude of the Union Pacific toward the management (which I may mention descriptively as the New England management) of the Burlington, and what were the relations of the Union Pacific toward that management?

A. The Burlington in some respects was competitive with the Union Pacific and in other respects it was a feeder to the Union Pacific. The relations, so far as they were competitive, were actively competitive but they were fairly competitive.

Q. And what were the relations in point of feeling between Mr. Harriman and the New England management of the Burlington—I mean in respect to good feeling?

A. Mr. Harriman had great respect and liking for the man-
7871 agement of the Burlington, for Mr. Perkins, of Boston, and the other gentlemen who for years had managed the Burlington. He understood them and he felt that they understood him. In the competition between them there was a spirit of "live and let live."

Q. In respect to the contemplated acquisition of 10 or 15 per cent of the Burlington stock, to which you have referred, was there any intent or purpose in the contemplation of that transaction or in its possible consummation, to extinguish the competitive factor of the Burlington?

A. None whatever, and it could not have been done of course with the amount of holdings which were then contemplated; but it was in Mr. Harriman's mind and in our minds to have an interest sufficiently large to preserve the independence of the Burlington from outside control and to preserve the status quo which had existed for many years.

Q. Now, those negotiations having failed, will you state what led up to the purchase of Northern Pacific stock in 1901 by the Union Pacific?

A. Yes. Towards the end of 1900 and early in 1901, reports came to us that Mr. Hill and his friends were negotiating for the control of the Burlington and were willing to pay the price which Mr. Harriman had declined to pay, and were willing to pay it for all of the stock. To express it very mildly, the relations then existing between Mr. Hill and Mr. Harriman were not exactly friendly. Mr. Harriman was a newcomer; he was a very aggressive man; he had, naturally, in the course of his rapid rise and in the course of his fight for the greater power and the greater recognition of the Union Pacific, to run up against the susceptibilities of many people,
7872 and the feelings between him and Mr. Harriman were, I should say, of mutual suspicion. Later on, I am happy to say, those men came to know each other better, and to appreciate and admire and respect each other, but at that time the feeling was anything but friendly. Mr. Harriman felt that, with Mr. Hill the controlling factor in the Burlington, the situation would be changed very much, to the detriment of the Union Pacific. He knew that there was competition between the Union Pacific and the Burlington; he might have preferred if there had not been any at all, but he knew that could not be, and he preferred to "bear the ills he had rather than fly to others that he knew not of," especially when the dispenser of those "ills" was a man at that time a man so little friendly to him as Mr. Hill. And it was perfectly clear that that could not be permitted to happen—that control of the Burlington by Mr. Hill and his interests; that deflection of the Burlington's entire relations from the Union Pacific to the Northern Pacific, and the consequent shutting out of the Union Pacific from that immediate territory, could not be permitted without the most strenuous kind of effort on the part of the Union Pacific to prevent it. In March, 1901, if I remember the date rightly, the acquisition by the Northern Pacific and Great Northern of the Burlington was definitely announced. Prior to that time there had been repeated approaches made by the Union Pacific interests to obtain from the new owners of the Burlington some kind of recognition in the way of binding arrangements which would protect the Union Pacific against the dangers which it foresaw from hostile control of the Burlington. Those approaches and
7873 efforts on the part of the Union Pacific finally came down to a request for a third or a half interest in that purchase, so that the Union Pacific interests could be in a position to watch and see that their interests were not sacrificed, and this request on the part of the Union Pacific was finally flatly and definitely refused, and they were told that no kind of participation in the purchase could be given to them. Thereupon the Union Pacific interests served notice that they considered that a hostile act, and that they would have to take such measures as seemed to them best to protect their interests. I would like to mention in this connection, as bearing upon the connection which you have asked me as to the purpose of that $100,000,000 issue, that when that $100,000,000 was authorized, in the last days of January or the first days of February,

we had not the remotest idea that we were going to buy the Northern Pacific. If we had had that idea it is natural that, having some experience in financial matters, we would have made that issue sufficiently large to take care of the amount which would be required to acquire control of the Northern Pacific. In other words, if it then had been in our minds to acquire a majority of Northern Pacific Stock, as we afterwards did under compulsion, we should have made that issue $125,000,000 instead of $100,000,000 because acquisition of a majority of the Northern Pacific called not for $60,000,000 but for $85,000,000, and if it had been in our minds to do what we later on did do with the use of those convertible bonds, we would have made the issue sufficiently large to cover our needs and not sufficiently small to fall short by $25,000,000 of covering our needs. The
7874 first time that the acquisition of the Northern Pacific was ever mentioned between the Union Pacific interests was late in February, 1901, after the acquisition of the Burlington had come to our knowledge as a definite fact and after our efforts to obtain a peaceable solution of the situation thereby created had failed. I remember the date so distinctly because after the carrying through of the Southern Pacific negotiations, I went to Hot Springs, about the middle of February, 1901, and towards the end of February, 1901, I received a letter from my partner, Mr. Jacob Schiff, telling me that he had exhausted all efforts to bring about the recognition of the legitimate claims—

Mr. SEVERANCE. I think it would be better to produce that letter.

WITNESS. I haven't got it.

Mr. SEVERANCE. I will object to the statement of the contents of this letter. I presume Mr. Kahn must have the letter somewhere.

Q. Have you that letter?

A. No; I never keep private letters.

Mr. SEVERANCE. Then the record will show that Kuhn, Loeb & Company do not preserve their letters.

Mr. DUNNE. You know better than that, Mr. Severance.

WITNESS. I never keep private letters. That was a private letter.

Mr. SEVERANCE. I understand the record shows that Mr. Kahn has not the letter now: that the letter is destroyed or lost.

WITNESS. I have not the letter. I never keep private letters.

Mr. DUNNE. Go right ahead with your statement.

7875 The reporter then read the concluding words of the last statement of the witness as follows: "I remember the date so distinctly because after the carrying through of the Southern Pacific negotiations, I went to Hot Springs, about the middle of February, 1901, and towards the end of February, 1901, I received a letter from my partner, Mr. Jacob Schiff, telling me that he had exhausted all efforts to bring about the recognition of the legitimate claims——"

WITNESS. —of the legitimate claims of the Union Pacific to be considered in the purchase of the Burlington, or to be alloted a share in that purchase either for itself or for interests allied with it, and that therefore there was nothing to do but to bring about by indi-

rection that which we had failed to bring about directly; that is, protection of the Union Pacific as far as the disruption of its relation to the Burlington was concerned, and that protection as far as he could see could only be brought about by our purchasing a control of the Northern Pacific which owned one half of the Burlington stock. Prior to that the idea of buying Northern Pacific had never been in our minds and had never been mentioned between us, and the purchasing of Northern Pacific was the direct consequence of the purchase by the Northern Pacific of the Burlington, and otherwise would never have taken place.

Q. Then, as I understand you, Mr. Kahn, the purchase of Northern Pacific stock as such would not have been entered upon if the Great Northern and the Northern Pacific had not absorbed the Burlington?

A. It never came into our minds until the Great Northern
7876 and Northern Pacific absorbed the Burlington, and it was a consequence of their doing so.

Q. In that transaction will you state what your attitude was in relation to the purchase of Northern Pacific stock, as to whether it was an affirmative or negative attitude, offensive or defensive?

Mr. SEVERANCE. I object to that as purely speculative and leading.

A. Our attitude was a purely defensive one, with the purpose of maintaining the *status quo* in the relations of the Burlington and the Union Pacific.

Q. Was there any relation or connection between the Southern Pacific stock purchase and your attitude and transactions in respect to the Burlington or the Northern Pacific?

A. None whatsoever. At the time we bought the Southern Pacific, as I have already stated, the idea of acquiring Northern Pacific was in no way in the minds of any of us, and we should not have acquired Northern Pacific unless and until the Hill interests acquired the Burlington, and thereby vitally (as it then seemed) interfered with the relations that had for many years existed between the Burlington and the Union Pacific.

Q. Was there any intent or purpose in any of these transactions to monopolise commerce or to restrain or prevent competition between carriers?

A. None whatsoever.

Q. Were the Rock Island and the Atchison roads engaged in transcontinental business as railroad carriers in 1900 and prior thereto?

A. Yes.

Q. At that time, in 1900, or prior thereto, what position was taken, if you know, by the Union Pacific in respect to the acquisition of those properties or either of them?

7877 Mr. SEVERANCE. I object to that as immaterial under the issues.

A. I suppose this question bears upon the general subject of conspiracy of which we are accused. It is of course inherently wildly improbable that we should have attempted to monopolise all of the lines leading to the Pacific; and apart from its inherent improba-

bility. I know of my own knowledge, and I swear most positively, that there is not the remotest basis of fact in that charge. And bearing upon your question, and as witnessing that, I wish to say that if we had had any such purpose, the way to do it would have been to follow the line of least resistance; that is, we should first have acquired those lines to the west, to the Pacific coast, which were easy of acquisition, and we should have finished up, if we had wanted to, by at last acquiring that line which was most difficult of acquisition, and where we knew we would be running up against the very strongest interests in the land—and that is the Northern Pacific. The Atchison reorganization was offered to us a few years prior to 1900, and if any such object had been in our mind we would have undertaken that reorganization, and with that reorganization would have gone (as there does always go) a very large measure of future control. But we preferred not to undertake such reorganization, and we did not undertake it. For years after the Atchison control could very easily have been bought in the market without bringing about a contest with any partizan interests, because the Atchison holdings were very largely divided and no very great compact holdings were held by any great banking interests. The other road
7878 which, if we had in mind the acquisition of all the lines to the west—the other road which naturally would have lent itself to easy acquisition was the Chicago, Rock Island & Pacific. That road was actually offered to Mr. Harriman in 1901, and Mr. Harriman came to us and told us that the gentlemen who are now in control of the Rock Island——

Mr. SEVERANCE. I think I will object to all this testimony as hearsay—all the testimony as to conversations between Mr. Harriman and the witness.

WITNESS. Mr. Harriman came to us and told us that the gentlemen in control of the Rock Island were thinking of laying down the burden and that the control of the property was in the market, that it was a very excellent property and well worth the price at which it could be had. We told him that he was in charge of the Union Pacific and the Southern Pacific, that that was as much as any man could properly attend to, and that even though he was a genius the burden of administering so enormous a system was, in our opinion, more than enough for any one man to bear; and that even if it were legally permissible to acquire the Chicago, Rock Island & Pacific, we thought there was a limit to the economic advantages of consolidation, of economy of operation, and that limit consisted in the size of the aggregation; that when the aggregation, at the head of which any one man is put, exceeds a certain volume, so as to exceed the human limitations of any one man to give personal and proper attention and direction, that then in our opinion there was no longer any advantage, from the economic point of view, in co-operation, in amalgamation; and that we strongly advised him not to think of that proposition for one minute. He agreed with us, the proposi-
7879 tion was laid aside, turned down. If we had wanted to pur-

chase all the lines leading to the west, or any substantial part of them, we would have bought, first, the Atchison and the Rock Island, which were easy to buy; and then possibly at the last, the very last, the Northern Pacific, which we knew was very strongly held by the strongest interests in the land.

Q. I have referred in these questions to the Union Pacific. We have been using the term very freely in this investigation. You understand that I am referring to the Union Pacific system?

A. Yes, of course.

Q. It appears in the record that in 1906 the Union Pacific acquired $10,000,000 of Atchison stock. Was that common or preferred?

A. That was preferred, and it was acquired at the end of July, 1906.

Q. From what source, if you know, was the amount of that investment derived?

A. We sold it to the Union Pacific.

Q. Can you state from what source the Union Pacific derived the funds that were invested in that stock?

A. Yes. The Union Pacific had on hand, as is generally known, a very large amount of Northern Pacific and Great Northern. The price of Northern Pacific and Great Northern had gone at that time to something like $320 for Great Northern and something like $250 or more for Northern Pacific, and the Union Pacific felt that at these extraordinary high prices, which made the interest on the investment barely 3 per cent, it would be very wise for them to sell, take their profit, and re-invest in other ways. Shall I proceed?

Q. Yes.

7880 A. They could have reinvested—and the matter was fully discussed—in several ways. They could have kept the enormous amount of money which they realized from sales of Great Northern and Northern Pacific—they could have kept that enormous amount of money in the bank, where they would have had from 2 to 2½ per cent on it, or they could have loaned it out on collateral loans. It would have meant that there would have been a fund at the disposal of the Union Pacific, in cash, of from $100,000,000 to $150,000,000; and we all felt that, if that were done, there would be, with the feeling which then existed against Mr. Harriman and those associated with him, a general outcry that the Union Pacific was trying to get control not only of all the railroads in the land, but of the money market, too, and that it was manipulating the money market with that enormous cash fund at its disposal. Therefore, the idea of leaving that money uninvested was discarded. The next alternative was for the Union Pacific to buy investment bonds with the proceeds of the sales from Great Northern and Northern Pacific. That would have given them an interest return of barely 4 per cent, and a somewhat inactive investment. Or the Union Pacific could have used part of that great cash fund to call in some of its bonds which could have been called, but the policy of calling in bonds was one which did not recommend itself to the

judgment of Mr. Harriman or of his executive committee, for reasons of principle which would take too long to go into here. So there was the only alternative left for the investment of that enormous fund—of buying high-class stocks, bringing from 4½ to 5 per cent, and having at the same time the collateral advantage of giving
7881 to the Union Pacific some kind of a voice—simply as the voice of a considerable stockholder—in the councils of those principal lines from which the Union Pacific through its connection derived a great deal of valuable traffic, and that was the policy which was finally decided upon, and that was the policy which explained the purchase of the Atchison Preferred stock and of most of the other purchases in 1906.

Q. There has been some reference in the testimony to the purchase of $30,000,000 of Atchison stock by Mr. Harriman and certain associates. Was that preferred or common stock?

A. That was common stock.

Q. In 1906, when the $10,000,000 of Atchison preferred were purchased, was that stockholding of $30,000,000 common intact?

A. That stockholding had been sold before the $10,000,000 of Atchison preferred were purchased by the Union Pacific. That stockholding, as far as the $30,000,000 of common stock goes, was a purely personal investment on the part of ourselves and some friends, and it was made because we considered Atchison stock at the prices at which we bought it a very attractive investment, and when we had enough profit on it we sold it out.

Q. Has the Union Pacific parted with its ownership in the $10,000,000 of Atchison preferred, or any part of it?

A. It sold its $10,000,000 of Atchison preferred last year.

Cross-examination by Mr. SEVERANCE.

Q. The Southern Pacific stock that was first acquired was, I think you said, $75,000,000?

A. $75,000,000 par value, yes.

Q. And from whom was that bought?

A. That was bought from Kuhn, Loeb & Company.

7882 Q. Yes, but Kuhn, Loeb & Company, as I understand it, acted for the Union Pacific in making the purchase.

A. No, they did not. I think if you will look up the testimony which I had the pleasure of giving three years ago, almost at this date, under your examination, you will find that that stock was bought by Kuhn, Loeb & Company on their own responsibility and at their own risk, with the sole understanding that they took upon themselves the obligation of offering it to the Union Pacific, and that the Union Pacific would take it or not as it saw fit.

Q. I understand from your testimony this morning that the Union Pacific acquired that stock for the reasons that you have detailed. Those reasons had been discussed, had they not, by the executive committee of the Union Pacific prior to the time that Kuhn, Loeb & Company acquired this stock?

A. At various times, yes.

Q. And it was in view of the fact that you knew it was the purpose of the Union Pacific to take over this stock that Kuhn, Loeb & Company purchased it?

A. No, hardly. At that time there was, as I also explained three years ago, quite a grave legal question as to whether the Union Pacific could acquire Southern Pacific stock: the legal question being that under the laws of Utah it was somewhat doubtful whether either the Union Pacific or the Oregon Short Line could hold the stock of a holding company. The Southern Pacific at that time was a holding company and not a railroad company. Later on, that defect in the law was cured by legislation, but at the time we bought the Southern Pacific stock it was quite doubtful whether
7883 the Union Pacific would be able to take it off our hands, and we were quite prepared, if it could not, to hold it ourselves, and naturally with our interests in the Union Pacific we would have held it so as to cooperate with the Union Pacific.

Q. The purchase, then, was made, as we may put it, either with the intention of turning it over to the Union Pacific in case it should have the corporate power to take it, or to hold it in friendly hands where it would cooperate with the Union Pacific?

A. Yes.

Q. That is a fair statement, isn't it?

A. That is a fair statement.

Q. This amendment to the Utah law which gave the additional authority to the Union Pacific or the Oregon Short Line, both of which companies were organized in that state, was obtained at the instance of your people—the Union Pacific people—wasn't it?

A. That I don't know.

Q. Do you remember of Mr. Pierce, your general counsel, going out to Utah to procure such an amendment?

A. No; I don't remember the circumstances under which that was obtained.

Q. But you recall that there was an amendment, during the winter of 1901, by the legislature of Utah?

A. I remember there was an amendment. I don't remember the date.

Q. Now, the first purchase of stock, $75,000,000, you say was from Kuhn, Loeb & Company. From whom did Kuhn, Loeb & Company buy this stock?

A. Most of it from the Huntington Estate.

Q. How much of it from them?

A. I would have to refresh my memory as to that.

7884 Q. Give me your best recollection?

A. My best recollection even would be guesswork as to such details.

Mr. CRAVATH. The record shows it, doesn't it?

WITNESS. Most of it was acquired from the Huntington Estate; a good deal of it was bought in the market.

Q. That first $75,000,000 was turned over to the Union Pacific, and later on, within a year or so, you bought $15,000,000 more, did you not?

A. Yes, sir.

Q. And that was also bought by the Union Pacific or the Oregon Short Line from Kuhn, Loeb & Company?

A. Yes, sir.

Q. From what source did Kuhn, Loeb & Company acquire that stock?

A. They bought that in the market.

Q. What was the purpose on the part of the Union Pacific in acquiring this additional $15,000,000 of stock?

A. If you want an answer to that, it will necessitate my going rather fully into a matter which is very fully set forth in the testimony that already forms part of this record; but if you wish, I will repeat it.

Q. I will be glad to have you explain it here, so it will all be together in your testimony.

A. What is the question?

Q. The question is the purpose of the Union Pacific in purchasing this additional $15,000,000 of Southern Pacific stock.

A. You said it was within a year. I rather think it was within two years.

Q. The date is immaterial.

A. A contest was threatened with the view chiefly of forcing the Southern Pacific to pay dividends at a date earlier than the Union Pacific people in the board thought its physical condition justi-
7885 fied it in devoting any part of its funds to dividends. The money, in the judgment of the Union Pacific directors on the Southern Pacific board, should have gone towards improving and maintaining and strengthening the property. The Union Pacific had spent many millions on making its line better, and the Southern Pacific, when the Union Pacific took hold of it, was in a physical condition very much inferior to that of the Union Pacific; and neither the Union Pacific itself, nor its shippers, nor its passengers could derive the full advantage of the improvements which the Union Pacific had made on its property until a corresponding improvement had taken place in the property of the Southern Pacific, which required an outlay of a very large amount of money. Therefore, the Union Pacific people thought that the payment of dividends on the Southern Pacific should be postponed until those necessary funds to put the property in first-class shape had been provided, mainly out of earnings. A great many stockholders disagreed with that point of view, and formed a combination to force the payment of dividends and to start a contest to take the dominating influence in Southern Pacific councils away from the Union Pacific into their own hands. It was in order to more firmly strengthen the Union Pacific's position in standing for its policy for the improvement of the Southern Pacific and for the better service which the Southern Pacific could

give to shippers and the public, and in the opinion of the Union Pacific even vastly better returns, which would ultimately accrue to the stockholders from that far-sighted policy, that the Union Pacific people thought it was incumbent on them to increase their
7886 holdings in Southern Pacific to the point where their dominating interest could not be threatened by any combination of disgruntled stockholders. That was the reason why they bought $15,000,000 more.

Q. That was the year 1902, wasn't it?

A. 1902 or 1903. I am not sure which.

Q. You stated that you were a director and an executive committeeman up to 1906?

A. Yes.

Q. Have you since been on the board?

A. No.

Q. How is that?

A. No. I have not since been on the board, until about three months ago when I was elected to the board and to the executive committee.

Q. That is what I thought. You are at present a member of the board and of the executive committee?

A. Yes. I beg your pardon.

Q. $90,000,000 of Southern Pacific stock is owned by the Oregon Short Line at the present time?

A. Yes.

Q. Have the Oreogn Short Line and the Union Pacific, or either of them, at any time since the acquisition of the $15,000,000 of stock, purchased any additional Southern Pacific stock?

A. They acquired a proportionate amount of Southern Pacific preferred stock, and to the best of my recollection—of course I could not speak as to the time during which I was not on the board, but to the best of my recollection they have not acquired any additional stock since.

Q. Have not the Union Pacific or the Oregon Short Line, or any one for those companies, acquired any Southern Pacific stock since you last went on the board—90 days ago?

A. I do not believe so—not since I have been on the board.
7887 Q. Haven't there been any recent purchases of Southern Pacific stock, either by the Oregon Short Line, or the Union Pacific, or by what you have designated here as the Union Pacific interests, for the purpose or with the possibility of ultimately turning it over to one or the other of those companies?

A. I do not believe since I went back on the board there have been any purchases of Southern Pacific stock on the part of the Union Pacific or the Oregon Short Line.

Q. Has there been any purchase of Southern Pacific stock by Kuhn, Loeb & Company for the purpose or with the intention, under certain conditions, of turning it over to the Union Pacific or the Oregon Short Line?

A. If there had been I would not tell you unless I had to. I don't know if I have to.

Q. Then, you decline to answer that question?

A. I may want to answer that question.

Mr. CRAVATH. Could that be relevant, Mr. Severance? He has not been a director——

Mr. SEVERANCE. It is entirely relevant. He is a director and a member of the executive committee, and so states.

Mr. CRAVATH. He has been such for three months.

Mr. SEVERANCE. I am asking about purchases in the three months.

Mr. CRAVATH. I understand your question went farther back, but even then there is no objection to it.

Mr. SEVERANCE. Read my question, and you will see its pertinency.

The question was read as follows: "Has there been any purchase of Southern Pacific stock by Kuhn, Loeb & Company for
7888 the purpose or with the intention, under certain conditions, of turning it over to the Union Pacific or the Oregon Short Line?"

Mr. SEVERANCE. I mean within the last 90 days.

WITNESS. I may want to answer that question, but I would like to have a little time to consider it.

Mr. CRAVATH. Please note my objection, but possibly, after conferring with Mr. Dunne and Mr. Loomis, I may withdraw the objection.

WITNESS. You might put me in the same position. I may want to answer the question, but I would like to have some advice on it.

Q. What do I understand you to say?

A. I may want to answer the question, but I would like to ask my adviser first.

Mr. SEVERANCE. I would suggest we stop here and let you ask him. I would like to go on with the examination.

Mr. DUNNE. Mr. Cravath has asked me to confer with him about it.

Mr. SEVERANCE. Do you prefer to do it during the noon recess?

Mr. DUNNE. If you please, yes.

Mr. SEVERANCE. Very well: then I will pass that subject until after recess.

Q. Is any other member of your firm at the present time a member of the Union Pacific or the Southern Pacific board?

A. Yes, my partner, Mortimer L. Schiff.

Q. A member of both boards?

7889 A. He is a member of the Southern Pacific board and of the Southern Pacific executive committee.

Q. Are you a member of the Southern Pacific board?

A. No. I am a member of the Union Pacific board and of the executive committee.

Q. Is Mr. Jacob H. Schiff a member of either board?

A. No; Mr. Jacob H. Schiff has resigned from both boards.

Q. He went on the board after the death of Mr. Harriman, didn't he,—on both boards?

A. For a short time, yes.

Q. Now, you stated that the first $40,000,000 of bonds, out of the $100,000,000 of convertible bonds, were offered to the stockholders, and about 75 per cent, I believe you said, were taken by the stockholders?

A. It is my recollection that that is the amount.

Q. That was all done pursuant to the contracts between Kuhn, Loeb & Company that are already in evidence?

A. Yes.

Q. So there is no need of spending time over that. And the other $60,000,000 of bonds were sold to Kuhn, Loeb & Company by the Union Pacific at the time the Union Pacific was making payment for the Northern Pacific stock?

A. Yes.

Q. Now, Mr. Kahn, you stated in answer to counsel that you were apprehensive that other interests would buy the Central Pacific line of the Southern Pacific, and that was the dominating reason (as I understood you) for the acquisition of the Southern Pacific stock?

A. Yes.

Mr. CRAVATH. I do not believe that is a correct statement of his testimony.

Mr. SEVERANCE. I think it is.

Mr. CRAVATH. My recollection is he said other interests
7890 would buy the Southern Pacific.

Mr. SEVERANCE. Possibly I misunderstood him. I will change the question. But he has already answered the question, and I will ask it over again. Let his answer stand.

Q. As suggested by counsel, you were apprehensive that other interests would purchase the stock of the Southern Pacific?

A. Yes.

Q. And give control to someone else?

A. Yes. Either that, or with the death of Mr. Huntington that other interests would naturally be coming into the Southern Pacific who might be antagonistic to the Union Pacific.

Q. Now, what interests were there that were negotiating for this stock? I understood you to testify there had been some negotiations for it.

A. I only testified that it was reported to us that there were.

Q. Who were the interests that were reported to you were negotiating for that stock, and when was it you received those reports?

A. Those reports came to us throughout 1900.

Q. Before or after the death of Mr. Huntington?

A. Both before and after the death of Mr. Huntington.

Q. Who were the interests?

A. A number of varied interests was mentioned, Mr. Gould among others. But I would not like to state, unless I am compelled to, who the interests were that we were advised endeavored to get control of the Southern Pacific.

Q. I think I will ask you to tell that, Mr. Kahn, in view of the fact that you testified as you did on direct examination.

A. These reports were naturally of a confidential character, and unless I have to state them I would prefer not to state them.

7891 In fact, unless I have to state them I decline to state them.

Q. I will put the question to you directly, then. You stated on direct examination that it was reported to you that interests either hostile or outside of the Union Pacific interests were endeavoring to acquire control of the Southern Pacific stock, and that you were apprehensive that they would—because of these reports made to you. Now I ask you what the reports were that were brought to you, and the names of the interests (as you call them) that were endeavoring to secure that control.

Mr. CRAVATH. May I suggest a word? You don't care from whom he obtained the information?

Mr. SEVERANCE. Well, I don't know. I will not commit myself, Mr. Cravath, until I see what he says.

Mr. CRAVATH. The question, I understand now is, who were the rumored interests.

Mr. SEVERANCE. I will probably follow that up by inquiring from whom he got this information. Mr. Kahn's testimony goes to the intent of the transaction, all through, and he has opened this up on direct examination—I didn't open it up.

Mr. CRAVATH. I think you are entitled to an answer.

WITNESS. All right. If you will give me a little time I will try to refresh my memory.

Q. Would you rather I would take that up after lunch?

A. I would, because I was not prepared for the question, and it is some years back. I have no doubt I can refresh my memory.

Q. That is all right, Mr. Kahn; I don't want to hurry you at all. You stated that Mr. Harriman, previous to Mr. Huntington's

7892 death, had, with your knowledge, conducted negotiations for the purchase of the Central Pacific line.

A. Yes.

Q. Were you present at any of those negotiations with Mr. Huntington?

A. It is pretty hard to remember such details ten years back, and I really could not say under oath whether I was or was not present. There were running conferences. Mr. Harriman would meet Mr. Huntington frequently. I might come across Mr. Huntington in his office, and might come at a time when this matter was under discussion, and I might not. I could not swear (it is a matter of ten years back) whether I had any particular conference or not. I know that such conferences were held.

Q. They were held during the year 1900, previous to the death of Mr. Huntington?

A. Yes.

Q. He died about midsummer of that year?

A. He died about August, 1900, and I think the conferences were held both during 1899 and 1900.

Q. What was the proposition made by the Union Pacific interests to Mr. Huntington? What did they want?

A. What the Union Pacific wanted from Mr. Huntington and the Southern Pacific was some way (they did not care which) in which the existing relations between the Union Pacific and the Central Pacific could be put in definite, permanent and unalterable form, so that nothing could happen to the Southern Pacific (Mr. Huntington was an old man) which would affect the possibility of access under existing arrangements of the Union Pacific to San Francisco by the use of the Central Pacific. The Union Pacific was prepared to accept any reasonable arrangement which would have accom-
7893 plished that purpose and which would suit Mr. Huntington, and among the ways thought of to accomplish it was the offer to purchase outright the Central Pacific and leave the rest of the system alone.

Q. That is what I wanted to get at. Who made that offer to Mr. Huntington? When was it made, and were you present when it was made?

A. Mr. Harriman made that offer, and he made it more than once.

Q. Was it ever made in your presence, Mr. Kahn? Mr. Harriman is dead and Mr. Huntington is dead, and that is the reason I am trying to find out whether this is merely something that was told you or whether it is something you know of your own knowledge and was present when the offer was made.

A. I was in daily contact with Mr. Harriman. I saw him after every important conference, and I saw him in conferences. Whether or not I was at the conference at which that particular proposition was made I could not swear.

Q. You would not undertake to swear that such a proposition was ever made in your presence?

A. No, I would not undertake to swear to that.

Q. The Sunset Route of the Southern Pacific, you stated in answer to counsel, was a deterrent feature?

A. Yes.

Q. You testified once before concerning this matter, and you stated in substance, I think, that you were not very familiar with railroad questions, that you had more to do with the financial part of the matter. Mr. Harriman was the railroad man of your combination, if I may use that expression, was he?

A. Yes.

Q. You, however, did know, didn't you, Mr. Kahn, that the Sunset Route of the Southern Pacific existed?

A. Yes.

7894 Q. You knew, did you not, that the Southern Pacific had a line of steamers from here to the Gulf running in connection with those rail lines?

A. In a very general way, yes.

Q. You knew that traffic was carried from here to California by that route, didn't you?

A. Yes.

Q. A large amount of traffic?

A. No; I didn't know whether the traffic was large or small.

Q. But you knew they were in the market and were doing business?

A. I knew they were doing business. I didn't know how precariously, but I knew they were doing some business.

Q. Before O. K.-ing this proposition of acquiring the Southern Pacific stock, you, as a prudent banker, investigated somewhat into the property and business of the Southern Pacific, didn't you?

A. Not very much. We were pretty familiar through many years of observation, with the value of Southern Pacific stock and with the value of Southern Pacific property, as we are with the value of any other existing important railroad stock, and it does not need very much observation or very much investigation to enable us to judge whether at a given price a certain stock is worth buying or not.

Q. Of course I understand that down here on the street the value of the property behind the stock does not always fix the market value of the stock, but when you are buying a large property like this for a corporation of which you are an executive committeeman, isn't it your custom to look into the property as well as the stock?

A. We knew the property as far as its intrinsic value was concerned.

Q. That is what I mean.

7895 A. We knew the property as far as its intrinsic value was concerned. As far as the details of its operation were concerned, that was a matter that did not concern us in the slightest in buying the stock. We knew its earnings and we knew that for many years it had accomplished such and such results, and we were confident that with the development of the country and with good management and with a good deal of money spent on it, to put it in first-class shape, it could be developed even into a more prosperous and more profitable proposition than it was at that time.

Q. I think that answers my question. You had for years been familiar with the property and its earnings?

A. Yes.

Q. And you felt that those earnings could be increased under good management?

A. Yes.

Q. And you felt that the country served by that line would develop?

A. We felt that the whole of the United States would develop, particularly the west.

Q. You knew, didn't you, with your knowledge of the property, that the line from Ogden to San Francisco was only in mileage something like a tenth of the entire mileage of the Southern Pacific system?

A. Yes.

Q. And that is leaving out of the question the boats?

A. Yes.

Q. You also knew, did you not, from your investigation of that matter, before purchasing this stock, that the Southern Pacific owned a majority of the stock of the Pacific Mail Steamship Company?

A. We knew that had been bought, I believe, the year before we acquired the stock, and it was considerably criticized at the time. It was in no way an inducement to buying it, but rather the opposite.

Q. That is, you felt the fact of acquiring the Southern
7896 Pacific stock and thus dominating it, and, at the same time, by controlling the Pacific Mail, dominate the Panama route to the Pacific coast, was a deterrent rather than an advantage?

A. I would not say a deterrent; it certainly was not an inducement. I know in a general way that at the time the Pacific Mail was bought the general opinion was that it had been paid for at too high a price, and that it was not a very advantageous investment to the Southern Pacific. It certainly did not in the slightest degree influence us in favor of buying the Southern Pacific, and it was not sufficiently important to deter us from buying it.

Q. No. I understand it didn't stop you from buying it. But the fact that you were acquiring the control of another transcontinental line, namely, the Panama route, by getting the ships of the Pacific Mail, was not regarded by you as a good thing for the Union Pacific? You did not think it was a good thing for a transcontinental railroad to control that line?

A. To be quite frank, we did not give it any consideration either way. It did not cut any figure either way.

Q. But you did consider the control of the Sunset Route as a positive disadvantage, as I understood you—direct and positive?

A. "Positive disadvantage" is putting it rather strong. In my first examination, three years ago, I called it a "nuisance," and I think that is still the best expression to designate the state of mind with which we then considered that Sunset Route. We knew it would require a great deal of money to be spent on it; we knew that it added thousands of miles to the burden of administration and of
7897 management. We were very anxious that the Union Pacific should receive as much of the administrative ability and of the railroad genius of Mr. Harriman as it was possible for him to give it, and we were rather disinclined to put upon him any more burden than was necessary to the best development of the Union Pacific; and therefore we, individually, felt that if the Southern Pacific could be separated, keeping only the Central Pacific and the North and South lines in California, and getting rid of the southern part of the Southern Pacific, we would be getting rid of a nuisance.

Q. That is, if you could have gotten rid of the competitive line by the Sunset Route it would have been a distinct advantage to the Union Pacific?

Mr. DUNNE. I object to the question because it assumes that the Sunset line was a competitive line of the Union Pacific. That is a

question that will be passed upon by the Court, and I do not think it should be assumed in questions put to the witness.

WITNESS. Not because of its competitive feature, as you call it. It did not strike us at the time, and I am not clear in my mind at this day, until there is a judicial determination of the question, whether or not the Sunset Route was a competitive line or is a competitive line. To demonstrate that competitive feature in no way influenced us one way or the other at the time: Before we bought the Southern Pacific, we asked, as we always do, that the legal aspect of the transaction be reported upon by our counsel, as to whether it was an entirely safe transaction for us (my firm, I mean) to undertake, or whether there were any legal obstacles of any kind, and we
7898 were informed that the only possible legal obstacle to our acquiring that stock, and the possible acquisition of it by the Union Pacific, if it should so determine, was the question of the Southern Pacific being a holding company and not a railroad company, as otherwise there was not any possible question of any legal obstacle in the way. So the competitive feature never entered our minds.

Q. You were also advised by counsel, as I think appears in the records of the Union Pacific, that there was no legal obstacle to the acquisition of the Northern Pacific. The Supreme Court did not agree with you.

A. I do not think that appears in the record. The Supreme Court, anyhow, I believe, was pretty evenly divided, so that there was room for doubt in the mind of a layman.

Q. You did not require your counsel to insure the opinion they gave, did you? They did not insure the accuracy of the opinion?

A. No.

Q. But as I understand you, then, the sole thing that you had in mind, as far as you yourself were concerned, in connection with the acquisition of that Southern Pacific stock, was, first, to secure sufficient of the stock to give the Union Pacific control; and, second, through that control, to keep possession of the management of the line from Ogden to San Francisco. Is that a fair statement of what you said?

A. Of the line from Ogden to San Francisco, and of the north coast lines in California which were considered valuable feeders in bringing business to and taking business from the transcontinental line, from Omaha to the coast. The southern part we did not care for at that time. Meanwhile, I believe, through Mr. Harri-
7899 man's genius and Mr. Harriman's admirable management, and the management of those who were associated with him, those southern lines have become valuable parts of the Southern Pacific; but that situation, as far as my knowledge goes, did not exist at the time we bought the Southern Pacific.

Q. Are you aware of the fact that the Southern Pacific Sunset Route was a very well-constructed line, as testified to by Mr. Kruttschnitt the other day; that, as a matter of fact, its physical condition

was better at that time than was the physical condition of the Union Pacific and the Central Pacific?

Mr. DUNNE. I will object to the question upon the ground that it assumes that at the time of the purchase of the Southern Pacific stock Mr. Kruttschnitt testified that the Sunset line was a very well-constructed line. I understood him to testify that it was constructed at a later period than the Union Pacific and was relatively better.

Mr. SEVERANCE. That is what I meant.

Mr. DUNNE. But that millions of money were spent upon the Sunset, after the acquisition of the stock, in order to bring it to a proper state, physically. I object to the question as framed because I think it is hardly a fair resumé of Mr. Kruttschnitt's testimony on that point.

Mr. SEVERANCE. Then I will change the question and put it in almost your exact language.

Q. Were you aware that at the time the Union Pacific bought the Southern Pacific stock, the Southern Pacific Sunset-Route, having been constructed later than either the Union Pacific or the Central Pacific, was relatively in much better physical condition?

A. No.

7900 Q. Well, I will leave off "much."

A. In better physical condition.

(A recess was here taken until 2 o'clock P. M., at which time the witness was recalled, and his cross-examination resumed, by Mr. Severance.)

Q. Mr. Kahn, we will now return to one of the questions that your counsel desired to take under consideration over the noon recess. I will first ask you to fix the date that you returned to the board of the Union Pacific and to membership upon its executive committee.

A. I wish you had asked that question before lunch and I could have looked it up. I did not know you were going to ask it and I have not fixed it.

Q. Can you give about the date?

A. No, I haven't got the date. It is about two months ago. You can telephone to Judge Lovett and find out in a few minutes.

Q. Wasn't it shortly after Mr. Harriman's death?

A. No. I was in Europe when Mr. Harriman died and did not return to this country until October, and did not resume my position on Union Pacific board until about two months ago.

Q. You think it was after the first of January?

A. I know it was after the first of January.

Q. Was Mr. Schiff a member of the board previous to your going back on the board?

A. Yes.

Q. Up to the time that you went back?

A. Yes.

Q. You succeeded him, did you?

A. Yes.

Q. Both as member of the board and as executive committeeman?

A. Yes.

7901 Q. That is Mr. Jacob H. Schiff—the senior Mr. Schiff?

A. Yes.

Q. Now, I will ask you, as I did before luncheon, whether since you returned to the board and executive committee of the Union Pacific, that company, or the Oregon Short Line Railroad Company, or the Oregon Railroad & Navigation Company, or anyone in the interests of those companies, or any of them, have purchased any Southern Pacific stock?

A. Not since I returned to the board, but as a director I know what was done in the time preceding my reentry to the board, and I can answer that question if you want me to.

Q. I would like to have you answer that question. Give me a full statement of all additional purchases made by those companies or any of them since the date of the purchase of the preferred stock which you referred to this morning.

A. The only additional stock purchased was purchased, as far as I know, early in January.

Q. What year?

A. This year. Being 74,000 shares. These 74,000 shares were bought for the following reason——

Q. 74,000 shares of Southern Pacific stock?

A. 74,000 shares of Southern Pacific stock.

Q. Common or preferred?

A. Common stock.

Q. Go ahead.

A. These 74,000 shares were bought for the following reason: A bill (so we were informed) was introduced in Congress, or contemplated to be introduced in Congress, which would give to those railroads that had 50 per cent of the holdings of another railroad (competing or otherwise) the right not only to retain that 50

7902 per cent, but, if they so chose, to purchase the balance, in addition to the 50 per cent, whilst railroads that had less than 50 per cent had no such assurance. Thereupon, upon the advice of Judge Lovett, it was deemed in the best interests of the Union Pacific that its holdings of Southern Pacific stock should be increased to a total of 50 per cent of the entire outstanding amount of the Southern Pacific stock. A few weeks afterwards Judge Lovett advised the executive committee that the terms of the bill, as he had understood them, had been changed, or were going to be changed, and that the provision to which he referred and which was the reason for the purchase of additional Southern Pacific stock, would not go into the bill, and Judge Lovett advised in consequence that the purchase of additional Southern Pacific stock be stopped at once, and it was stopped on the same day, and no more stock has since been acquired. With these 74,000 shares which have been acquired under the circumstances I have related, and which are more fully set forth in a resolution adopted by the executive committee, and which is of course at your disposal, and deducting 50,000 shares which, upon the order of Mr. Harriman, were sold last summer, because Mr. Harriman thought it did not make any difference whether the Union Pacific

had 50,000 shares less, and he thought the company had good use for the money,—I say with those additional 74,000, and deducting 50,000 sold, the Union Pacific or Oregon Short Line's total holdings of Southern Pacific stock have been increased by 24,000 shares over and above what they were, and that gives the Union Pacific or Oregon Short Line a total holding of Southern Pacific stock amount-
7903 ing to 46 per cent of the outstanding capital stock of the Southern Pacific.

Q. How many additional shares would it have been necessary to purchase to accomplish the acquisition of 50 per cent of the stock at the time that purchase was undertaken in January?

A. We would have required, roughly speaking, 154,000 shares. That is more than twice the quantity that we actually bought.

Q. The purchase of that stock was put in the hands of Kuhn, Loeb & Company, as usual?

A. Yes.

Q. And you purchased it in the market through brokers?

A. Yes.

Q. And all you had acquired up to the time the order was countermanded was 74,000 shares?

A. Yes.

Q. What was the date that you stopped purchasing that stock?

A. About the 10th of January.

Q. The provision in the act of Congress that you speak of, which induced you to go into the market to buy enough additional Southern Pacific stock to make 50 per cent, is as follows. I am reading now from pages 26 and 27 of Bill 21,232, pending in the House of Representatives. It is an amended bill, but it contains this provision. I will read it to you. First, there is a prohibition against any railroad corporation which is a common carrier, subject to the act to regulate commerce, hereafter acquiring directly or indirectly any interest of whatsoever kind in the capital stock, or from purchasing or leasing any railroad of a railroad corporation which competes with the first-named corporation respecting the business to which the act to regulate commerce, as amended, applies; and then comes this provision: "Provided, however, that nothing in this section contained shall operate to prevent any such corporation
7904 which at the date of the passage of this act owns not less than one-half of the entire issued and outstanding capital stock of any other railroad corporation from acquiring any of the remainder of such stock, nor to prevent any such corporation which is now operating under lease, made for not less than twenty years, a railroad of any other such corporation from renewing such lease, or acquiring the reversionary ownership of the lessor railroad, either directly or through purchases of the stock of the lessor company." In substance that is the provision to which you refer, isn't it?

A. No, that is not the provision which, becoming known, induced Judge Lovett to stop buying. The provision to which he referred

was a provision which he understood the law contained or was to contain, that a railroad owning 50 per cent of the stock of another railroad would be allowed to remain in possession of that 50 per cent; that its possession of that 50 per cent would not be contested, and that it was at liberty to buy additional stock beyond that 50 per cent, and that, without any restriction or any "ifs" or "buts", was his understanding of what the law would contain. He found out later that the law was not going to be such as he had understood it was going to be, and when he found that out he stopped further purchases.

Q. That is what this proviso provides, isn't it—that the provision against acquiring stock in a competing road should not apply when the corporation at the date of the passage of the act owns half the stock? Wasn't that the act you had in mind?

Mr. DUNNE. I will object to that question on the ground that I do not think this witness ought to be examined as to the interpretation of a statute which it does not appear he ever saw.

7905 Mr. SEVERANCE. I am trying to find out if this was not in substance the law he had in mind. I think it is sufficiently clear that it is.

Q. Now, the Union Pacific had complete control of the management of the Southern Pacific, with power to elect the board of directors, and had done so from 1901 down, hadn't it?

A. Yes.

Q. Previous to this purchase?

A. Yes.

Q. It was not in any sense necessary to purchase this additional stock to give the Union Pacific control of the Southern Pacific, was it?

A. Absolute control, yes. It is always possible—I know a case in point—it is always possible, even if you own 45 or 46 per cent of the stock of a railroad, for the remaining 55 or 54 per cent, if it is worth their while and there is sufficient reason for it, to combine and make an active canvass against you and turn you out. It has happened.

Q. But you were not impelled to make that additional purchase on that ground, because you had had the control from 1901 down?

A. The Union Pacific have been able to keep control, but there was always a possibility that the control might be disturbed; and inasmuch as Judge Lovett felt that the law was going to authorize us to hold up to 50 per cent, it was in every way better to acquire up to 50 per cent; and, moreover, if we had held 50 per cent, we could have gone on and bought the entire capital stock if we thought it was the wise thing to do. But Judge Lovett is better able to give you his reasons than I am.

Q. If the two lines were not competing lines, there has been no reason at any time why you should not buy all the stock, has there? It did not require any act of Congress, did it?

7906 Mr. DUNNE. I object to the question on the ground that it calls for the opinion of the witness as to a matter of law. I

do not think he should answer that question, and I do not think any Court would require him to answer that question.

A. On advice of counsel, I decline to answer.

Q. As a matter of fact, did not the Union Pacific start in to purchase this additional stock of the Southern Pacific, which, if it purchased, would have made up 50 per cent, with the expectation that an act of Congress would be passed which would in substance validate the ownership of 50 per cent of the stock of a competing line by a railroad corporation? Wasn't that the ground upon which they proceeded to make this purchase?

A. I think the answer could be much better given by Judge Lovett, who advised the purchase, and the answer is embodied in a resolution of the Executive Committee which was passed at a time when I was not a member, and I should think that others are much more competent to answer that question than I am.

Q. Were you a member of the board then?

A. I was not a member of the board.

Q. Which corporation owned that additional 74,000 shares of stock?

A. The Oregon Short Line. You should say the additional 24,000.

Q. Yes, I understand, but I mean the 74,000 shares that were purchased in January of this year.

A. 50 thousand had been sold before.

Q. I understood you. You had sold 50 thousand shares last summer?

A. Mr. Harriman gave orders to sell 50 thousand shares—not through my firm. I don't know how he sold them.

Q. The Oregon Short Line had disposed of 50 thousand
7907 shares, and these additional 74,000 made a net increase over the amount shown in our record up to this time of 24,000 shares.

A. That is right.

Q. Now, one other question was taken under consideration over luncheon, or, rather, you wanted to look it up, and that is with reference to whom you say the parties were who were endeavoring to buy the Southern Pacific previous to the death of Mr. Huntington.

A. The first party I have already mentioned. That was Mr. Gould.

Q. When was that?

A. The end of 1900 or the beginning of 1901.

Q. That was after the death of Mr. Huntington, then?

A. It was after the death of Mr. Huntington, yes.

Q. Perhaps I misunderstood you this morning, but I understood you to say that it had come to your knowledge, before Mr. Huntington's death, that efforts were being made by other interests to purchase the Southern Pacific.

A. I could not so exactly divide it, whether it came to us just exactly before August, 1900, or after August, 1900; I don't know. In a general way, the impression in our mind—it was more than an impression, because in some cases it amounted to knowledge—was

that, first, in at least one instance, we know of a positive effort that was being made; in at least one other instance that I can remember it was reported credibly that an effort was being made; and, secondly, after the death of Mr. Huntington, there was a continual position of latent possibility of the sale of the Southern Pacific, inasmuch as it was known to be in the market. Mr. Huntington's stock was known to be in the market, and there was other stock
7908 which was known to be in the market. Therefore there was at that time, when Mr. Huntington died, both the opportunity and the danger of the Union Pacific. It was then its time either to get the Southern Pacific or lose it irrevocably.

Q. Coming down to the fall of 1900 and the winter of 1901, that you have spoken of, you say at that time Mr. Gould was trying to buy the control of the Southern Pacific, or trying to buy the Huntington stock at least.

A. Mr. Gould, so we were informed, was desirous of buying the Huntington stock.

Q. Who controlled that Huntington stock before Kuhn, Loeb & Company bought it? Who were the executors?

A. The executors were Harry Huntington, I think, and Mr. Tweed, and Mrs. Huntington.

Q. That is H. E. Huntington?

A. That is H. E Huntington.

Q. And Mr. Tweed?

A. And Mr. Tweed and Mrs. Huntington, as far as I can remember.

Q. Who conducted the negotiation with the executors on behalf of your firm for the purchase of the stock?

A. Largely ourselves.

Q. I say who acted for your firm?

A. Mr. Schiff and myself, with the co-operation of Mr. Harriman.

Q. Then, the negotiations for the purchase of that stock from the Huntington Estate were conducted by Mr. Jacob H. Schiff, Mr. E. H. Harriman and yourself?

A. Yes.

Q. And over what period of time did those negotiations extend?

A. The negotiations for the actual acquisition materialized very rapidly; I should say not more than two weeks.

Q. And when did they come to a head?

A. In February, 1901, or the end of January, 1901, I think. Yes, it was the end of January, 1901.

7909 Q. And how long after Kuhn, Loeb & Company took over the stock from the Huntington Estate before it was turned over to the Union Pacific?

A. That appears on the record. I haven't looked it up.

Q. You don't recollect?

A. No.

Q. It was a very few days, wasn't it?

A. Oh, no. There was first of all the time when an agreement was made—a verbal agreement—that the purchase would be concluded, and when a contract was made. That, as far as I remember, was the first half of January. Then came the actual execution and the payment and actual delivery. That, as far as I remember, was on the 5th of February, 1901, and it was between the date of the making of the contract and the date of the actual payment that our negotiations with the Union Pacific had been brought to a close.

Q. I think perhaps it appears in your former testimony. In your communication to the board, you said: "We have purchased 432,700 shares of the Southern Pacific stock of the Southern Pacific Company of Kentucky, to be paid for as follows: 144,233 shares on February 11; 268,467 shares on, or at our option before July 10, with interest at 4 per cent per annum from February 11, all said shares to be deposited with a trust company until entire payment is completed. We have further purchased the following shares: 200,000 shares to be paid for on, or at our option before March 4th; 45,000 shares to be paid for, one-half on February 5th, and one-half on January 8th. The average price at which we have made the above purchases, exclusive of interest accruing, is $50.6146 per share." You remember that letter, don't you? (It appears at page 1217 of the printed record in this case.)

A. Yes.

7910 Q. It was a very few days after sending that letter, wasn't it, that the Union Pacific took over the stock?

A. A very few days after sending that letter, yes, but that letter would be perhaps three weeks after the actual closing of the negotiations and the mutual taking over of the obligation by us.

Q. Did anyone share with you in that purchase from the Huntington Estate, except your firm?

A. Nobody.

Q. That was a personal matter of your firm?

A. A personal matter.

Q. And you issued, as you stated on direct examination, the $40,000,000 of convertible bonds for the purpose of paying for the stock?

A. Yes.

Q. Was it at the same time, or substantially the same time, that you were negotiating for the Southern Pacific stock that these negotiations with Mr. Hill relative to an interest in the Burlington purchase were had, or was that later?

A. That was later.

Q. How much later?

A. Almost immediately after. The point of time, of course, was not determined by us but was determined by the acquisition of the Burlington by the Hill interests, and it so happened that that point of time almost coincided with our acquisition of the Southern Pacific, and we immediately took it up.

Q. One followed immediately after the other?

A. You might say one immediately after the other.

Q. And it was also, by at least a coincidence, that immediately following the arrangements for the purchase of the Southern Pacific stock that the contest arose over the construction of
7911 the San Pedro road, wasn't it?

A. I did not even know that that was simultaneous, one with the other. I will take your word for it, if it is so. I did not even know it.

Q. That was something that Mr. Harriman looked after more especially than you; didn't he?

A. Well, of course, the executive committee had general knowledge of it, but Mr. Harriman had special charge of it.

Q. You have already stated that Mr. Gould was trying to buy control of the Southern Pacific; who were the other people that you spoke of?

A. I said that Mr. Gould was reported to us to be desirous of acquiring control.

Q. But you learned that he was in negotiation with Mr. Huntington and Mrs. Huntington and Mr. Tweed?

A. I do not remember the details of that. I know that it was credibly reported to us that Mr. Gould was desirous of acquiring, or thinking of acquiring, or planning to acquire, the Huntington holdings in the Southern Pacific. How far he went in carrying out the intention I do not know.

Q. He was at that time a member of the Union Pacific board, wasn't he?

A. At that time he still was a member of the Union Pacific, I think, yes.

Q. Who were the other people that you understood were trying to buy it?

A. The other people that we understood were thinking of buying, or were being urged to buy, rather,—I understood were being more urged to buy than they were thinking of buying—were the Burlington people.

Q. By the "Burlington people" do you mean Mr. Perkins
7912 and his associates?

A. Yes, Mr. Perkins and his associates.

Q. You stated that Mr. Harriman had had negotiations, as I understood you, with the Burlington people in 1900?

A. Yes.

Q. Which negotiations were pursuant to an understanding with you or at least discussed with you and your Board?

A. Yes.

Q. And those negotiations were for the purchase, you said, of 10 to 15 per cent of the stock?

A. They were for the purchase of the holdings of the people who were then controlling the Burlington, which, as I say, was a New England element, represented chiefly by Mr. Perkins (if I remember his name rightly) of Boston. I think these holdings, in so far as

any compact holdings were there, amounted to from 10 to 15 per cent of the stock.

Q. But it was proposed to buy the holdings of the gentlemen who officered and filled the directorate of the Burlington?

A. It was proposed to buy the holdings of Mr. Perkins and his immediate associates.

Q. Mr. Perkins was the president of the C. B. & Q. at that time, wasn't he?

A. I think he was.

Q. Who were the immediate associates that you refer to?

A. I do not remember their names. They were mainly New England people.

Q. You assumed, did you not, in inaugurating those efforts to purchase, that if you bought the stock of Mr. Perkins and his associates who were in control of the property, that you would acquire the control yourself, unless an effort was made thereafter to dislodge you?

A. Oh, no; very far from it. I do not think that was—in fact I know it was not in the slightest degree the idea then in Mr.
7913 Harriman's mind. He did not want any control of the Burlington. He wanted the situation of the Burlington to remain as it was.

Q. But whom did he propose to have officer it and form the directorate if you were buying out all the people that controlled it at that time, or controlled the management of it?

A. The stockholders: there were 85 per cent of the stockholders left.

Q. Unorganized, however, weren't they?

A. Stockholders are for the purpose of electing directors.

Q. I say they were unorganized; were they not?

A. Unorganized? All stockholders are unorganized, but it is not only the few men in the directorate who determine the future of the property.

Q. That is true; of course I understand that, but why did you pick out the particular 10 or 15 per cent of the Burlington stock that was owned by Mr. Perkins and his associates in the management, if you did not expect by that purchase to acquire the management?

A. Because that happened to be a holding which was for sale.

Q. But what did you want of it?

A. What did we want with it?

Q. Yes.

A. We wanted to have sufficient influence in the Burlington to preserve the then existing situation.

Q. If you had influence enough to preserve the existing situation, you would have influence enough to change the situation if you had the management, wouldn't you?

A. There is a very large difference between a negative and a positive influence.

Q. Do you think that 15 per cent is insufficient, even if it is the stock of the gentlemen in control of the property, to con-
7914 trol its affirmative action, but that it is still sufficient to prevent any other action by the 85 per cent?

A. I think 15 per cent of compact holding in any property is sufficient to prevent stockholders being stampeded. It is sufficient to form a nucleus for opposition to any scheme which those 15 per cent consider unwise and not in the interests of the property. It is a compact and therefore an influential minority holding, the value of which is mainly in the negative, mainly in the power to oppose infliction and to enforce publicity far more than in its positive value. 15 per cent have no positive power to control; neither does 30 per cent give positive power of control.

Q. If the 15 per cent was the stock of the directors and the officers, and that was turned over to you, you assumed that at least temporarily, in the absence of affirmative action by the 85 per cent, it would give you the control of the management?

A. No, I would not so assume unless there was a separate and distinct understanding going with it that the 15 per cent was purchased under an understanding that the management would be turned over to the purchasers of the 15 per cent,—and such understanding was never made and was never contemplated.

Q. Whom did you propose to have manage the property after Mr. Perkins and his associates sold out?

A. Whoever was best fitted for th position.

Q. Whom did you have in mind?

A. We did not have anybody in mind.

Q. You didn't even expect to suggest anybody with your little 15 per cent, did you?

7915 A. We expected to be consulted. Anybody who has 15 per cent of the stock in a property has a right to expect to be consulted in the choice of the management of the property.

Q. You expected that this would be the result, did not you—that you would buy out Mr. Perkins, who was the president, and buy out the gentlemen associated with him, who had been running the Burlington road for many years?

A. I didn't say that. I said the proposition was that Mr. Perkins was an old man and his main associates in part were willing to retire and sell out. The board of the Burlington did not consist entirely of old men: there was a good deal of young blood in it, and they would not all retire with Mr. Perkins. It was not even said that Mr. Perkins would retire entirely from connection with the property. He might have remained as the advisory head, and certainly his opinion and the opinion of those who in the past had the management of the property, would go a very long way in determining the choice of their successor.

Q. But you did contemplate that the management should retire if they sold out? You did not expect, for instance, that Mr. Perkins,

if he sold out his property and his associates sold out, would continue as the president, did you?

A. Hardly.

Q. You expected to nominate their successors, didn't you?

A. No, we did not.

Q. Well, how did you expect to nominate the successors? Do you think this 85 per cent of other stock would organize itself and do it?

A. We expected, before Mr. Perkins retired and before his associates on the board retired, that they would see to it that the
7916 management of the property would be continued under a properly qualified head. We did not expect the men who had devoted their lives to building up the Burlington would retire precipitously and leave the thing in chaos and say "Now, you with your 15 per cent, do as you like with the property; it does not concern us any more." They naturally would have had a good voice in electing their successors, but we expected to be consulted to the extent that any important stockholder is consulted when a change takes place in a property.

Q. You expected, then, to have an influential voice in the management; if not the control, an influential voice in the management; that is true, isn't it?

A. We expected to have no voice whatever in the management except to the extent we wanted to prevent anybody else from exerting an influence which would endanger the existing relationship between the Union Pacific and the Burlington. That was our whole object, and beyond that we were not interested in having any voice.

Q. But the persons who were going to conduct the Burlington, that is, the officers, would be the men that would either continue the existing competitive conditions that you referred to this morning, or change them, would not they?

A. Yes.

Q. The new officers?

A. Yes.

Q. So you did expect, then, to have a voice in the selection of the new officers who would have the say directly as to the manner in which the competition should be carried on?

A. We expected to have sufficient of a voice in the selection of new officers to make it plain to us that those men would be men that were not under the influence of anybody whose purpose was to break up the relationship which had existed for many years between the Burlington and the Union Pacific.

7917 Q. What was that relationship?

A. The relationship was one of active competition, but of fair competition. In addition to fair competition, there was a good deal of business which the Burlington gave to the Union Pacific, and which, if it chose, it could give to others.

Q. Where?

A. I could not mention it off-hand.

Q. Just name one point at which this business could have been diverted to some other line?

A. I could not mention one point because I am not a railroad man, and I have not looked at the connecting points between the Burlington and the Union Pacific for ten years.

Q. You say it could have been done. Where could it have been done?

A. I took the word of our railroad advisers for that.

Q. Now, you speak of the continuance of the competition between the lines. Were you afraid that somebody might get control of the Burlington and eliminate competition between the Union Pacific and the Burlington? Did that frighten you?

A. That would have been a pipe dream: that would not have been anything which reasonable men would expect to accomplish.

Q. You did not expect any outsider would do that, did you?

A. No.

Q. Now, you say the competition existing was fair competition; what do you mean by that?

A. It is very hard to define words unless you have a Webster Dictionary right by your side. Fair competition is, I think, a term which is very generally understood, without my defining it any further. I do not believe I could add anything to the general understanding of the term "fair competition." It means no cut-throat competition, no underhanded methods. It means active but fair. I could not
7918 define it any better than that.

Q. That is practically a re-statement of the other; it adds a little to it. But you say "fair competition." Do you mean by that, that the Burlington had its soliciting agents in the field and the Union Pacific had its soliciting agents in the field and they were each trying by fair methods to secure competitive business? Is that what you mean?

A. Yes; certainly.

Q. And that you would consider fair competition?

A. Yes.

Q. Were you fearful that the Burlington might build more lines into Union Pacific territory and thus unfairly invade your territory?

A. We were not fearful of it, no.

Q. That was one thing you had in mind, wasn't it?

A. No, that was not in our mind.

Q. I thought that was something that the Southern Pacific and the Union Pacific management attached a great deal of importance to.

A. No, that was not in our mind, nor did we attach any particular importance to such. The Union Pacific was strong enough to hold its own, and if the Burlington built into Union Pacific territory, the Union Pacific would have retaliated, and after some trouble both would probably have realized that they had been very foolish.

Q. You think it is foolish for one line to build into another line's territory, don't you?

A. Yes, unless there is sufficient business there to justify it; and I think it is foolish, for mere spite or for mere lust or aggrandizement, to invade another fellow's territory when he is giving good service, and when there is not sufficient business there for two lines—either there or likely to be developed.

7919 Q. I suppose that feeling is what led you and your associates in the Southern Pacific to take over the lines, in southern Arizona, of the Santa Fe, that had built into your territory, because you thought they were built through a lust for aggrandizement? Is that right?

A. I was not a member of the Union Pacific at the time that was done.

Q. Now you say that if the Burlington had built into the Union Pacific territory, the Union Pacific would have built into the Burlington's territory, naturally; that that would have been a natural thing.

A. That depends. If the act of the Burlington was an act of aggression, not justified by economic reasons, the Union Pacific doubtless, without wasting its resources in a similar wanton aggression, would have protected itself in one way or another as would have seemed best to those in charge of the Union Pacific's railroad business.

Q. And the Union Pacific executive committee and board and officers of course would have to be the judges as to whether the act of the Burlington was wanton or otherwise in determining their own action?

A. They would have been very largely guided in that by the advice of Mr. Harriman, in whom they had the utmost confidence.

Q. Now, it was to prevent any such thing as this wanton attack, or any attack, so far as that is concerned, upon the preserves of the Union Pacific, that you desired on the part of the Company to get an influential voice in the Burlington and to maintain what you say was the existing status?

A. No; that is very far from what was in our thoughts.

Q. What was in your thoughts?

7920 A. I have said it repeatedly, and I will say it again, but I cannot say it in any other terms than those I have already expressed. In our thoughts was the menace or the danger to the existing relationship between the Union Pacific and the Burlington, who had been competitors for many years, but who trusted each other, who considered each other fair; who obtained, so far as the Union Pacific is concerned, a good deal of business from the other. The thought in the minds of the Union Pacific people when they wanted an interest in the Burlington was to have some kind of a voice in it, was to maintain that status—not to have anybody come in there and disturb a relationship which had been satisfactory for many years to the two properties and to the shippers.

Q. Oh, satisfactory to the shippers! Where did you hear that?

A. I never heard anything else.

Q. Did you ever hear that definitely, as an affirmative statement, or do you mean that you did not hear any objection on the part of the shippers?

A. I never heard anything else.

Q. You did not have anything to do with the management of the road, did you?

A. No.

Q. So you don't know about that. Now, as nearly as I can define what you have said on this subject, you say that the thought that anybody would come in and eliminate the competition between the two was a pipe-dream?

A. Yes.

Q. You wanted to prevent any extension, if I may so put it, of the competition that had existed? You wanted this fair competition, which had existed, to remain as it was and not be extended in an aggressive way?

A. No, that was not in our minds at all.

Q. What was in your minds?

A. The competition we were entirely content with. It was
7921 there; we knew it could not be eliminated, and we knew it had to continue whether we wanted it or not, and we knew that any attempt to eliminate that competition would not be tolerated.

Q. By whom?

A. Would not be tolerated by the people, by the minority stockholders or the majority stockholders of the Burlington, and by the Government; and that it was a thing utterly incapable of accomplishment if we should try to accomplish it, which we never did. What we wanted to preserve was, first of all, competition with people whom we had learned to respect as fair competitors, and, secondly, the maintenance of that business for the Union Pacific which the Union Pacific got from the Burlington and had been getting for many years.

Q. Didn't the Burlington also get business from the Union Pacific?

A. I suppose it did.

Q. Well, don't you know it? Don't you know that railroads interchange business?

A. Yes.

Q. When one gives the other business, the other gives it business?

A. Yes.

Q. It was for the interest of the Burlington as much as of the Union Pacific to continue to interchange business, wasn't it? Each got business from the other?

A. That would depend upon how much the Burlington was dependent upon the Union Pacific for its business, and how much the Union Pacific was dependent upon the Burlington for its business.

Q. Do you know?

A. No; I am not familiar with that.

Q. You know nothing about it?

A. I know nothing about it except only at the time these negotiations were under consideration, that Mr. Harriman, whose
7922 advice we took unhesitatingly in all railroad matters, told us

that the preservation of the Burlington business for the Union Pacific was of great value to the Union Pacific—and he generally knew what he was talking about.

Q. Did he say anything to you about the preservation of the Union Pacific business to the Burlington being of value to the Burlington?

A. No.

Q. He didn't say anything about that?

A. No, because there was no point in that.

Q. Then your buying this stock or proposing to buy this stock in the Burlington was not for the purpose of aiding the Burlington in maintaining its business, but for the purpose of assisting the Union Pacific's interest?

A. No, we were buying it for the purpose of maintaining a situation which had been mutually advantageous and satisfactory for many years, and which we did not wish to see disturbed.

Q. When you found that you could not buy the 15 per cent of the stock from Mr. Perkins and the other gentlemen who controlled the management of the Burlington, did you go into the market and try to buy 15 per cent of other stock or any amount of other stock in the Burlington?

A. No.

Q. Why didn't you, if it was merely a stockholding you wanted and not control of the management?

A. Because the conduct of negotiations at that time was going on, and by the time those negotiations were off the negotiations with Mr. Hill began, and after the negotiations with Mr. Hill began we did not touch the market—we didn't want to.

Q. But you did go to Mr. Hill and endeavor to share in that purchase.

A. Yes.

7923 Q. Did you personally interview Mr. Hill about that?

A. I was present at one or two meetings, but they were conducted by Mr. Harriman, primarily, and Mr. Schiff also.

Q. Now, you say the proposition that you made then was that the Union Pacific should have one-third of the stock?

A. A third or a half.

Q. A third or a half of the stock?

A. Yes.

Q. Of this road which you say was a competitor?

A. Which I say was both a competitor and a connecting line.

Q. But it was, among other things, a competitor?

A. A competitor, in the actual sense of the word, for local business to a certain extent. To what extent it was a competitor in the legal sense I do not know to this day.

Q. You have defined what you mean by competition—one line trying to get the business and the other trying to get it. In that sense they were competitors?

A. Competitors for part of the line, for local business.

Q. What do you mean by local business? Define that.

A. I mean business which is not transcontinental business.

Q. You think all business which is not transcontinental is local; is that it?

A. That is what is in my mind.

Q. Business moving from New York to Denver you would call local business, because it is not transcontinental?

A. I think when it comes to defining railroad terms and technical railroad matters you have me at such a disadvantage that I am not going to enter into the discussion, because I do not believe in matters which require technical knowledge of railroads you can get anything out of me which would be of the slightest advantage to you. I am a banker and a financier, and not a
7924 railroad man.

Q. A very able one, Mr. Kahn, and you have been a frank witness, and it is a great pleasure to ask these questions, but when you use an expression it seems fair I should ask you what you mean by it. Now, you say they were competitors on local business?

A. Yes.

Q. Will you kindly tell what that local business is concerning which they are local competitors?

A. I don't believe I could tell that because I am quite frank to admit that on all railroad questions we would take the opinion of Mr. Harriman, and Mr. Harriman would tell us that on such and such business, using the term "local business," they are competitors, and on such and such other business they are not competitors, and we would take his word for it. We did not go behind the meaning of his terms, or re-examine and check whether his statements were correct. We would follow his conclusions so far as the railroad end of the proposition was concerned, without examining into it ourselves.

Q. As I understand it, you do not wish us to take as evidence your statement that they were competitors only on local business, because it is something you do not know anything about, and you do not even know the definition of the term: is that right?

A. I have admitted my total ignorance on railroad business.

Q. Now, coming down to what happened after this endeavor to get a third or half interest. What was Mr. Hill's response to your approaches?

A. A flat refusal.

Q. When you found you could not get a third or a half interest, did you try to get any other interest?

A. No.

7925 Q. Why did you increase your request from 15 per cent—this negative you wanted—up to a third or a half?

A. To begin with, you have fixed on 15 per cent.

Q. I take it from what you said this morning—10 to 15 per cent.

A. I said as far as I remembered it was from 10 to 15 per cent, and 10 to 15 per cent would have been ample in the case of the situation

as it existed before, through Mr. Hill's entrance into the situation, the compact and formidable holding of Burlington stock was concentrated in one hand. Therefore, the situation changed radically when Mr. Hill came in. The thing that we were after was not a third but a half. When a half was refused we went as low as a third. What we were after was a full half.

Q. That is to say, you wanted to have an absolute veto on any extension or enlargement of the competition between the Union Pacific and the Burlington?

A. We had not the slightest objection to an enlargement of the competition, or to anything which was proper for the Burlington. We simply did not want the Burlington to be dominated exclusively by interests which were antagonistic to the Union Pacific, naturally and necessarily so, and which would, and doubtless did (although I have not followed it up) interfere with the relationship that hitherto had existed between the Burlington and the Union Pacific.

Q. They have not eliminated the competition between the Burlington and the Union Pacific, have they?

A. They have not; it was not contemplated that such competition should be eliminated.

Q. You say this interest which was seeking to acquire the
7926 Burlington was naturally hostile to the Union Pacific. What do you mean by the Northern Pacific and Great Northern interests being hostile to the Union Pacific?

A. I have already explained it this morning: that Mr. Harriman came into the railroad situation as a new element and a disturbing element. When any strong man suddenly appears on a scene where there is a nicely adjusted balance of power, and asks to be considered, and asserts claims, he becomes a disturbing element and arouses animosity. The Union Pacific for many years had been a weak line and had been looked down upon by its more prosperous and more powerful neighbors. That the attempt to make the Union Pacific as strong a line as any other and as big a power as any other could meet with anything but antagonism and animosity, would be to have a faith in human nature which I do not possess, and the attempt on the part of the Union Pacific to grow up and become strong and aggressive certainly did meet with antagonism and animosity.

Q. Did any of the other lines object when the Union Pacific acquired control of the Oregon Short Line and the O. R. & N., giving it an outlet to tidewater?

A. That was merely reestablishing a situation which had always existed.

Q. I ask you if anybody made any objection or acted hostile on account of it, so far as you know?

A. I don't know.

Q. You didn't hear any such thing, did you?

A. I did not.

Q. So that the Union Pacific had re-established itself as a through line from the Missouri to tidewater on the Pacific?

A. Yes.

Q. And without any apparent objection, so far as you know?

A. As far as I know. The Union Pacific re-established
7927 itself, not quite as it was before, but at least it got the Oregon Short Line and the Oregon Railroad & Navigation back.

Q. So they had a through line from the river to tidewater?

A. Yes.

Q. A through line to Portland?

A. Yes.

Q. And the Northern Pacific Railroad also had a through line to Portland?

A. The Northern Pacific also had a through line to Portland.

Q. When it was proposed by the Northern Pacific and Great Northern to come down and acquire the Burlington, which is in the heart of the Union Pacific territory, you say that was received as an unfriendly act, and when you were not permitted to join in the purchase you served a declaration of war, or something of that kind—I have forgotten the way you put it this morning?

A. I said we informed them that if that transaction was carried through without the Union Pacific obtaining proper protection, either in the way of joining in the purchase, or otherwise, if it was otherwise possible, the Union Pacific would be compelled to protect itself as best it could.

Q. And upon whom did you serve that notice?

A. That notice was served on Mr. Hill.

Q. By whom?

A. By Mr. Harriman and by Mr. Schiff.

Q. Were you present?

A. I may have been. I think it was also told Mr. Bacon of J. P. Morgan & Company.

Q. What response was made to that declaration?

A. The response was that it could not be done, that the Union Pacific could not be admitted.

Q. I know, but what response did they make to the state-
7928 ment that you would take care of yourselves and declare war, or however you put it this morning?

A. I said we would protect ourselves.

Q. What response was made to that?

A. That they must leave us to do as the protection of the interests of the Union Pacific required us to do.

Q. One more question with reference to this acquisition of the 74,000 shares of stock, or the stock you started out to acquire at that time. Isn't it a fact that the reason why the Union Pacific undertook to buy that stock, was that it was determined by the Union Pacific management that that would be the easiest way to defeat this pending suit—by getting 50 per cent of the stock and having legislation to authorize you to buy the balance?

A. No; the Union Pacific, as far as I know, is entirely confident that it will defeat this suit on its merits.

Q. If it is so confident, will you tell me why you wanted to buy enough stock to have 50 per cent and come within the terms of this proposed act of Congress?

A. As I have already told you, the answer to that is contained in a resolution by the executive committee. It can be explained by Judge Lovett, who is the author of that resolution. I was not a member of the board or of the executive committee at the time, so my explanation would be a great deal less lucid and authoritative than his.

7929 At request of Mr. Severance the following questions and answers were read:

"Q. What response was made to that declaration?

"A. The response was that it could not be done, that the Union Pacific could not be admitted.

"Q. I know, but what response did they make to the statement that you would take care of yourselves and declare war, or however you put it this morning?

"A. I said we would protect ourselves.

"Q. What response was made to that?

"A. That they must leave us to do as the protection of the interests of the Union Pacific required us to do."

Q. And the other interests that were purchasing the Burlington would do as their interests required, naturally?

A. Yes.

Q. So that you were left entirely foot-loose as regarded your relations with each other?

A. Yes.

Q. That the Burlington was a line, with other lines, by itself, and the Union Pacific by itself?

A. Yes.

Q. Each was free to take such action as might be necessary for the protection of those lines?

A. Yes.

Q. By way of competition or otherwise?

A. Yes.

7930 Q. What did you do next?

A. Next we set our heads to thinking how we could retrieve that situation, and we reached the conclusion that the simplest and the most effective way was to buy control of the Northern Pacific, for the purpose (through that control) of having 50 per cent of the Burlington stock.

Q. And you set to doing that?

A. Yes.

Q. How long did it take you to buy it?

A. About 3 months.

Q. And you did get a clear majority, didn't you?

A. A clear majority.

Q. But most of it was preferred stock, as it turned out?

A. Yes, sir: preferred stock.

Q. After the Northern Securities Company was formed, or in connection with it, this stock was put into that company?

A. Yes.

Q. And the rest of it is already explained in the litigation that arose afterwards?

A. Yes.

Q. You received back from the Northern Securities Company, as the result of that, certain Great Northern stock and certain Northern Pacific stock?

A. Yes.

Q. Which stock you have since disposed of?

A. Yes.

Q. You have sold it, as I understand?

A. Yes.

Q. You were asked this morning about the acquisition of this ten millions of stock in the Santa Fe.

A. Yes.

Q. And you stated that that was part of the proceeds of the Great Northern and Northern Pacific sales, and that you had invested a very large sum of money, coming from the sale of those stocks, in different railroad stocks in the country.

A. I want to make it clear. I did not say I had invested or had any share in the investment, because I was not a director of
7931 the Union Pacific at that time. I simply explained, in answer to a question, what the situation was, as I understood it, with which Mr. Harriman and the Union Pacific then found themselves confronted in the reinvesting of an enormous amount of cash, which they had on hand. I did not express an opinion as to whether they acted wisely or unwisely. I had no share in it. I simply explained the situation.

Q. Had none of this money been reinvested at the time you left the board?

A. No.

Q. None whatever?

A. None.

Q. The money that was reinvested in the summer of 1906, accruing from these sales, was invested through your house, wasn't it?

A. Yes; most of it.

Q. Wasn't all of it?

A. No, not all of it.

Q. How much additional stock has been sold by the Union Pacific and put out since the $100,000,000 of stock which was issued in exchange for the convertible bonds? What is the present capitalization of the road?

A. The present capitalization, including the outstanding convertibles, is, roughly speaking, $240,000,000 in common stock, and $100,000,000 in preferred.

Q. What has the additional stock been issued for, that has been put out since this one hundred millions of stock that took the place of the convertible bonds?

A. I could not tell you without going through the records.

Q. Let me ask you in a general way if it was stock that was sold for enlargements and betterments of the systems?

A. I think very little has been issued since then. I think all
7932 that has been issued since then has been $75,000,000 of con-
7933 vertibles, which is equivalent to forty millions of stock. What that has been used for I could not tell you without going through the records and ascertaining it.

Q. Was there any reason why it was necessary to issue additional stock? You could easily have raised the money by disposing of these securities that you bought, couldn't you? For instance, New York Central stock, Baltimore & Ohio stock, Northwestern stock, and all those? It was not necessary to encumber the road with more securities, was it, for the purpose of betterments?

A. I don't see how that encumbers the road.

Q. You pay dividends on it?

A. We pay 6 per cent from the railroad and pay 4 per cent on the separate capital which we have raised for the purposes of investment. So it does not encumber the road any. We are paying no more than 6 per cent from the earnings of the railroad, and the remaining 4 per cent are, free and clear, from the income from investments. So it doesn't burden the property any that I can see.

Q. You are paying on one hundred million issued in exchange for the convertible bonds $10,000,000 a year dividends, aren't you?

A. We are paying on that one hundred millions——

Q. 10 per cent?

A. Yes.

Q. $10,000,000 a year?

A. $10,000,000 a year.

Q. And you earn part of that ten millions by the income from investments, and the rest you have to make up out of the earnings of the road, while the whole proceeds went to buy stocks?

A. We earn more than the whole of it from the income from investments.

Q. Are you sure of that?

A. I am sure of that.

7934 Q. How much more?

A. That is taxing my memory pretty closely.

Q. Let me see if you are sure about that.

A. I am sure of it, but I could not give the exact figures.

Q. I do not expect you to try to remember it, if you are sure of the fact.

A. I am sure that there is a good deal more, yes.

Q. So you think it is better to keep on issuing new stock and continue these investments in stocks of other roads?

A. I never said that.

Q. Well, do you think that?

A. I do not.

Q. Now, your ten millions of Atchison stock: you say that was bought in 1906, and afterwards sold. That was sold since the commencement of this action, wasn't it?

A. That was sold early in 1909.

Q. Was it sold for a higher or a lower price than you bought it?

A. It was sold at exactly what it cost the company.

Q. How did it happen that you sold Atchison stock instead of some of these other stocks, if you wanted to raise $10,000,000 in money?

A. It is not always quite easy to give an answer which requires one to unravel the trend of thought in Mr. Harriman's brain. I am trying, in answer to your question, to find the particular reason why Mr. Harriman selected that particular parcel of stocks to sell. Perhaps, if you will give me time for thought, I may remember it. It is a year and a half ago now.

Q. Take your time to think of it.

A. (After a pause.) No, I don't know the particular reason.

7935 Q. When you went into the market and bought this Northern Pacific stock, you say that your primary purpose was to control the Northern Pacific, and through that have a half interest in the Burlington.

Mr. DUNNE. Just a moment.

Q. I will ask, was that your primary purpose?

A. No. That was our sole purpose. There was no primary or secondary purpose. Our sole purpose was to have 50 per cent of the Burlington stock inasmuch as the Great Northern had the other 50 per cent. That was our sole purpose.

Q. But the purchase of the control of the Northern Pacific, of course, would have resulted in giving you the absolute control of that line and a half interest in the Burlington?

A. That is what would have been the result if the transaction had carried through.

Q. And that was what you started out to get when you began to buy the stock?

A. We started to buy the stock because there was no other way of getting protection, so far as the Burlington is concerned.

Q. Getting protection?

A. Yes.

Q. From what?

A. Protection from the old trouble which I have repeatedly referred to heretofore—protection from a disruption of the existing relationship between the Burlington and the Union Pacific.

Q. Protection against an extension of the competition existing between the Burlington and the Union Pacific?

A. Not in the slightest degree. That did not enter into the matter at all.

7936 Q. You never think about competition, do you, in any of these transactions? You pay no attention to that, do you?

A. Very little, because I think it is folly for anybody to believe that he can control or check or materially diminish competition; and I have never believed in the possibility of doing away with competition, I have never believed in the desirability of doing away with competition. I think it is an Utopian idea.

Q. You simply believe in the control of competing systems by the same individual, feeling that he could not possibly eliminate competition even if he did control it?

A. I do not believe even in that. I have no principles or theories or beliefs on that subject.

Q. You were giving a theory a moment ago. You said any idea of eliminating or shrinking competition was Utopian.

A. I did not say "shrinking";—I said "eliminate".

Q. What do you think about shrinking, then; is that Utopian?

A. Does not this call for an interposition on the part of my counsel? Must I give opinions?

Mr. DUNNE. Really, a great deal of this examination has been disputatious and abstract, but I am undisposed to object if counsel will confine himself within any reasonable limits. I do not like to interrupt Mr. Severance.

Mr. SEVERANCE. It might just as well get into the record here that this morning this witness was interrogated as to his intentions, as to his theories, as to whether he intended to eliminate competition in what he did, and he denied that he had any idea of restraining trade, and I certainly have a right on cross-examination to find out what he meant by the testimony that he gave in answer to counsel for the defense.

7937 Mr. DUNNE. While I do not want to be drawn into any Socratic disputation with Mr. Severance, I must say I did not interrogate this witness as to his theories. I did ask him as to his intent, in which I was justified by the rules of evidence.

Mr. SEVERANCE. Entirely so, and I am entitled to go into the question with him on cross-examination.

Mr. DUNNE. I am not interposing any very serious objection.

Mr. SEVERANCE. You are interposing a speech.

Mr. DUNNE. Well, I think it was called for, Mr. Severance.

WITNESS. When it comes to my expounding theories on railroad matters, it is really a waste of time—of yours, of mine, and of the Judge's, and it is loading up this record with stuff of no earthly weight or interest to anybody. If you want my opinion on banking and finance, I am in a position to give it, but in railroad matters I am a layman and not an expert.

Q. That is very nice, but you have been asked by counsel as to whether you had any intention—I am quoting his language I think—intention to restrain trade and commerce or monopolize the same, by any of those various acts of which you were guilty, according to your own admission. Now, I am trying to find out what you meant by that answer. You say that it is Utopian to think that competition between different lines of road can be eliminated?

A. Yes.

Q. Trade would be restrained, in one way, by eliminating competition, wouldn't it? That would be one way of restraining trade? You meant that by your answer this morning, didn't you?

A. No; my answer was not to an abstract question, but to a
7938 definite and concrete question. The question was, In anything you have done, was it your purpose or object to restrain trade or to conspire to monopolize, or whatever else may be charged against you in this formidable bill? and my answer was a sweeping denial that any such thing entered our head. It was the concrete, and not the abstract.

Q. You did intend by the acquisition of this stock of the Southern Pacific—the Union Pacific's acquisition of it—to place in one control the Southern Pacific Company and the Union Pacific, did you not?

A. For the purpose——

Q. No, I will eliminate all purposes; but you intended to do it—to place them under one control?

A. Of course, we could not help ourselves. We could not get what we wanted in any other way. If we could have gotten it in any other way we would have preferred it. We needed the Central Pacific and we could not acquire it in any other way. We tried to, but failed.

Q. Now answer my question, please. This is cross-examination. You intended by what you did, that is, by what you and your associates caused the Union Pacific to do—the acquisition of the Southern Pacific stock, to place under one control the Union Pacific system and the Southern Pacific system, didn't you?

A. No.

Q. What did you intend to do, then, if you did not intend to put it under one control?

A. We bought at that time 40 per cent of the Southern Pacific stock. We did not change the management—Mr. Hays remained as general manager. We did not displace, as far as I know, a single one of the men in the conduct of the business until then; and
7939 whether that management was our management or anybody else's management was quite immaterial to us, as long as it protected our vital interests in the Central Pacific.

Q. You stated that you did not displace any of the management.

A. I say as far as I know.

Q. Or change any of the management. Now let me ask you: Didn't you in June, 1901, having acquired this stock in the spring, make Mr. Stubbs the head of the traffic department of both systems, as director of traffic?

A. Yes.

Q. Didn't you do that?

A. I don't remember what date we did it.

Q. But you remember that you did it?

A. I remember that we did it.

Q. And you would not deny you did it in June, 1901?

A. I would not deny it.

Q. Didn't you, at a later date, make Mr. Kruttschnitt head of maintenance and operation of both systems?

A. Yes.

Q. Didn't Mr. Harriman become the chairman of the board of both lines?

A. Yes.

Q. And, later on, the president of both lines?

A. Yes.

Q. Didn't you, in every city in this country outside of New York and San Francisco, consolidate the soliciting and commercial agencies of the two companies?

A. I don't know.

Q. You don't know?

A. No.

Q. Then, why did you testify that you did not make any common management?

A. I did not say we did not make any common management. I said we did not care whether the management was common or not.

Q. Why did you do it if you didn't care?

7940 A. Because, doubtless, it was economy to both properties.

Q. It was a matter of economy?

A. Surely.

Q. You regarded it as more economical not to have two agents in a city, one of them trying to move the traffic by one route and the other by the other route; is that right?

A. That I couldn't tell you; I couldn't tell you the reasons which prompted or induced the Union Pacific and the Southern Pacific to get together on such particular propositions. I only tell you that our object was what I have stated.

Q. You need not repeat that again. Let me ask you what economy was practiced by putting Mr. Stubbs in charge of the traffic of both systems, while you still maintained a freight and a passenger traffic manager of each system? You put an extra man in there, didn't you, with a large salary and a large office?

A. I could not answer any question bearing upon the details of railroad management.

Q. You stated you did these things from motives of economy?

A. I said I presume; I am guessing at it. It is quite useless to cross-examine me about that. I am guessing at these things, and you know it.

Q. You were an executive committee man during all these days?

Mr. DUNNE. Now, Mr. Severance, all this testimony is in the record, about the officers. Aren't you really taking up a great deal of time unnecessarily? I don't like to interrupt you.

Mr. SEVERANCE. I will explain the reason. You have asked Mr. Kahn to testify as to his intent, as to whether his intent was to restrain trade and commerce or monopolize it. He has denied

7941 that. I have a right on cross-examination to show that he has been a party to acts which would tend in that direction, and that is fair cross-examination, and Mr. Kahn is a very intelligent witness.

Mr. DUNNE. Whether the consolidation of officers is expressive of the abolition of a previous competitive condition or is simply significant of the union of connecting lines, is all a matter of argument that we ought to reserve for the court, instead of taking up time in arguing matters with witnesses. I do not wish to be discourteous or to interrupt your cross-examination.

Mr. SEVERANCE. I am sure you do not, but I think Mr. Kahn has had sufficient rest, now, so that I can proceed.

Mr. DUNNE. I hope so. He does not look very much worried.

Mr. SEVERANCE. I do not think he is at all. He does not need your protection half as much as you think he does.

Q. Now, you testified that Mr. Harriman came to you, in 1901, with a proposition that you buy the control of the Rock Island.

A. Yes, sir.

Q. From whom did he propose to buy that control?

A. Part of it in the market, part of it from those who at that time were large holders of Rock Island, such as Mr. Cable, and others.

Q. What was the object of buying the Rock Island?

A. I have explained very fully—that there would have been no earthly object in it, except if it had been our intention to do as you charge us with doing—to try to restrain trade and control the avenues of trade to the Pacific coast; in that case there would have been a very important object in having the Rock Island, but as there was no such idea in our minds we turned it down.

7942 Q. That is to say, Mr. Harriman could have had no possible reason, so far as you know, for wanting to purchase the control of the Rock Island, except to endeavor to monopolize the business of that country.

A. He could have had other reasons.

Q. But you don't know of others?

A. Oh, yes. There may have been the reason that it was a cheap purchase. It was cheap, and the people that bought it afterwards made money out of it.

Q. You stated a moment ago that there could have been no reason for making that purchase except for the purpose of carrying out what you are charged with in this bill. Now, you mean by that, do you, that Mr. Harriman had the distinct idea of getting control of another competing road, when he came to you with the proposition that you turned down?

A. I said *if*. I said there would have been an object in doing that *if* the idea had been in our heads. As the idea was not in our heads, there was no object in buying that property except on the ground that it was cheap, as we advised Mr. Harriman. We admitted it was cheap at the time and admitted money could be made out of it, but we told him he had burden enough on his shoulders, that the Union

Pacific and the Southern Pacific claimed his time and energy, and we advised against putting any additional burden upon his overtaxed shoulders, and he at once agreed and said "You are right; we had better leave it alone".

Q. But you bought an interest in other lines, and he went on their boards and participated in the management?

A. But that was afterwards, when the Union Pacific and
7943 the Southern Pacific had been developed to such a degree and established in such splendid working order that his immediate and personal attention to every detail was not required any more; it was still required, but not to the extent that it was required in 1900 and 1901, which were the years of its greatest development.

Q. What time in 1901 did he come to you with the proposition to buy the Rock Island?

A. That I could not tell you. It was sometime before the gentlemen who now have the controlling interest in the Rock Island finally concluded to buy it, and it was a few months before they acted; but I could not tell you exactly when that was.

Q. It was after you had bought the Southern Pacific?

A. I think so.

Q. And after you had bought the Northern Pacific?

A. Yes.

Q. But during the year 1901?

A. I am pretty sure it was during the year 1901.

Q. Now you spoke of one other line—the Atchison?

A. Yes.

Q. Did Mr. Harriman come to you with the proposition to buy that line?

A. Let me say this first: If I say Mr. Harriman came to us with the proposition, that does not mean that Mr. Harriman was acting actively. I mean that he was passive. He came to us, and he brought us a proposition. He said, "This proposition has been submitted to me. What do you think about it?" It was not that he came and said, "I make you a proposition." He said, "I bring to you a proposition submitted to me by"—somebody else. I want to make that plain.

Q. I am asking you a question now about the Atchison. Did he come to you with a suggestion that you buy an interest in the Atchison?

A. Never.

7944 Q. Who got up the syndicate that bought the $30,000,000 of Atchison stock which you have been talking about?

A. I would hardly call it a "syndicate"—a few business associates getting together to buy a stock which they considered cheap. It is done every day without the solemn name of "syndicate."

Q. Well, you didn't buy $30,000,000 after all, did you?

A. Yes; within a few thousand shares, more or less.

Q. The testimony shows you represented you had $30,000,000 when you were asking for membership on the board, but I have here the

stipulation about this stock. When was it you bought that stock—what year?

A. It took some time. I can tell you when we sold it, but I can't tell you when we bought it. I think we bought it in 1905.

Q. Wasn't it in 1904? All the testimony is 1904.

A. 1904, probably.

Q. The stipulation in this case is made by yourself and your associate defendants. I refer to page 3395 of the record. "That the transfer books of the Atchison, Topeka & Santa Fe Railway Company closed for the purposes of the annual meeting of the stockholders of that company for the election of directors on the 22nd day of September, 1904, and that at the close of business on said date the separate holdings of the stock of said The Atchison, Topeka & Santa Fe Railway Company, owned by the defendants, Harriman, Frick, Kahn, Rogers, Schiff and Stillman, and the firm of Kuhn, Loeb & Company, and all stock held by any two or more of them jointly, aggregated the following: Separate ownership, 3000 shares, joint ownership 178,000 shares."

A. Yes.

7945 Q. That would be $18,000,000, wouldn't it?

A. Yes.

Q. And the next meeting, 21st day of September, 1905, 100 shares owned separately, and 162,860 owned jointly?

A. Yes.

Q. Which would be a little over $16,000,000?

A. Yes.

Q. And that on the 20th of September, 1906, you had, separately, 14,700 shares and no joint stock?

A. Yes.

Q. There are no $30,000,000 on any of those dates.

A. There are two things you overlooked. First of all, the fact that on a certain date we held more or less does not mean that it happened to be the day we had our maximum; and secondly, you have named certain men, and you are not sure that the men you have named are all the men that were interested in that joint purchase.

Q. Who else was interested?

A. Well that I will not say, unless I have to.

Q. Mr. Schiff stated that Mr. William Rockefeller was interested?

Mr. CRAVATH. I do not think that is proper.

Q. Do you think that is so?

A. You can generally take his statement.

Q. You will not dispute Mr. Schiff about that?

A. I will not dispute Mr. Schiff, but I will not make any statement as to who were interested with us in that purchase.

Q. Now, Mr. Kahn, you bought that stock, and shortly after buying it made an application to the Santa Fe for membership on the board, didn't you—you and your associates?

A. Yes; we were entitled under the law to two directors, and having a large interest in that property we did not see any reason why

we should not avail ourselves of our legal privilege of having two directors.

7946 Q. That is to say, by the cumulative system of voting under the laws of Kansas, by electing one director a year, you could eventually have two or more perhaps?

A. Yes.

Q. You went and asked for representation?

A. Yes.

Q. You desired to have Mr. Harriman go on the board and on the executive committee of the Santa Fe, didn't you?

A. Not that I know of. He may have so desired, because he may have thought that he could do good to both properties. We never requested it. We never thought it should be done.

Q. You agreed with Mr. Morawetz about that?

A. We agreed with Mr. Morawetz about that.

Q. You did desire, however, to have two gentlemen who were members of the Union Pacific board put on the Santa Fe board?

A. We desired to have two gentlemen in whom we had every confidence, whose ability and wisdom had been thoroughly tested and who were thoroughly satisfactory to both sides, to go on the Atchison board. At the same time the fact that they were directors of the Union Pacific we did not consider a detriment.

Q. No detriment?

A. No detriment.

Q. You realized at the time you were suggesting their appointment that they were directors of the Union Pacific?

A. Yes.

Q. You had that in your mind?

A. Yes.

Q. You were not dissatisfied with the way Mr. Ripley and his associates had been running the Atchison?

A. Not that I know of.

Q. You felt confidence enough in the Atchison management so that you were willing to put your money into the stock of that road?

A. Yes.

7947 Q. So, it was not for the purpose of procuring any change that you thought ought to be made in the methods of administration that you wanted Union Pacific directors made directors of the Santa Fe, was it?

A. No. We were simply representing an investment of $30,000,000 and we thought we were entitled to have our own men on the board.

Q. Now, it seems, according to the stipulation, that you sold your interests in 1906.

A. Yes.

Q. You did not go around and suggest that those Union Pacific directors resign from the Santa Fe board when you sold out your interest?

A. No. The Atchison people knew that we had sold our stock. It was up to the Atchison people and not to us.

Q. You did not make any suggestion that they should get off as long as you had no stock for them to represent?

A. The Atchison people were informed that we had sold our stock.

Q. You did not suggest that, having sold the stock, your directors stay on? They stayed on?

A. They stayed on by the will and by the annual election of the Atchison stockholders, and not any longer at our request.

Q. Has there been an election of either of those gentlemen since you sold the stock, by the Santa Fe stockholders?

A. Has there been an election?

Q. Yes, of either one of those two Union Pacific directors whom you put on?

A. I presume at the annual election.

Q. Do you know?

A. No.

Q. Are not the directors elected for a term of years on that road?

A. I do not know.

Q. Isn't it a fact that after landing your two directors you sold your stock and the directors stayed there until Mr. Rogers died,
7948 and the other director is still there and his time is not yet up?

A. We sold our stock in 1906, which was after the landing (as you so prettily express it) of our directors. I think it was about a year and a half after the "landing" of our directors, that we sold our stock. We informed the Atchison people that the stock had been sold, and the slightest intimation on their part to men of the standing of Mr. Frick and Mr. Rogers that their presence was no longer welcome in their councils would have been sufficient for them to resign immediately.

Q. They stayed there anyway, whatever the reason was, after you succeeded in getting them in and after you had sold the stock?

A. They stayed.

Q. You stated that the stock that you owned did not, as I understand it, include the $10,000,000 of Atchison stock that was bought by the Union Pacific?

A. Yes.

Q. That your stock was common stock and the $10,000,000 owned by the Union Pacific was preferred stock?

A. Yes.

Q. And that was purchased by the Union Pacific through your house?

A. Yes.

Q. And sold, you say, since the beginning of this action, at the same price at which you bought it?

A. Yes.

An adjournment was then taken until the morning of Tuesday, March 8, 1910, at 10.30 o'clock.

7949 ROOM 720, CUSTOM HOUSE, NEW YORK CITY,
Tuesday, March 8, 1910, 10.30 a. m.

The hearing was resumed before the Special Examiner, Hon. Sylvester G. Williams, at the above time and place.

Present: On behalf of the Complainant, Mr. C. A. Severance; on behalf of the Defendants, Mr. Peter F. Dunne and Mr. N. H. Loomis.

Mr. LOOMIS. It is stipulated between the parties that the following examination of Judge W. R. Kelly may be read into the record and treated as his testimony in all respects as though he were present and testified under oath.

Mr. SEVERANCE. Yes.

W. R. KELLY

testified:

Question 1. I will ask you, Judge, to state what, if any, official relations you bore prior to 1901, towards the Union Pacific Railway Company, Union Pacific Railroad Company, the Oregon Short Line & Utah Northern Railway Company, and the Oregon Short Line Railroad Company.

Answer. In 1888, I was General Attorney for the Union Pacific Railway Company for the States of Nebraska and Iowa. About 1889 I was made Assistant General Solicitor for the Union Pacific system, which embraced the Union Pacific Railway Company and the Oregon Short Line & Utah Northern Railway Company, and other lines, and continued to act as such until and during the receivership of both companies which will be hereafter mentioned. I was made General Solicitor for the Receivers of these lines on January 10th, 1896, and continued to act as such until the respective lines were taken over by purchasers at foreclosure sales. In July, 1898, I became Solicitor for the Union Pacific Railroad Company.

7950 About the early part of 1901, I was directed by the President or Vice-President of the Oregon Short Line Railroad Company to assist the Law Department of that road in those controversies which are hereafter mentioned, and either in that year or the next year I became General Solicitor for the Oregon Short Line Railroad Company, and continued to act for both as General Solicitor of that Company, until January 1st, 1905.

Question 2. Will you give me a history of the ownership and of the title of the Oregon Short Line Railroad Company to its railroad lines and property existing and extending southerly from Salt Lake City to and into what is known as the Meadow Valley Wash, say up to April, 1901.

Answer: (1) The Nevada Pacific Railway Company was a corporation organized under the laws of the State of Nevada, under articles filed with the Secretary of that State on May 13th, 1889. It had

corporate power, by Article 5, to build a railroad from a place called Summit on the eastern boundary of the State of Nevada, near the place where the old overland wagon road crosses said line on its way from Utah to Pioche, Nevada, the same being the terminal point of the Utah Central Railway; thence in a southwesterly course across the State of Nevada into and through the County of Lincoln to a point on the western line of said State of Nevada, about half way between the 35th and 36th degrees of North Latitude; also certain branches described therein. The place called Summit, fixed by the terminus of the Utah Central Railway, is substantially the point since known as Uvada.

(2) The Oregon Short Line & Utah Northern Railway Com-
7951 pany was a consolidated corporation organized on the 27th day of July, 1889. A copy of its Articles of Incorporation is found in Pacific Railroad Laws at page 213, and following. It was created by the consolidation agreement made between the:

Oregon Short Line Railway Company, a corporation existing under the laws of the United States in the territories of Wyoming and Utah, and owning a line of railroad from Granger, Wyoming, to Huntington, Oregon, with branch lines in Idaho;

Also, The Utah & Northern Railway Company, a corporation of the territory of Utah, under an Act of Congress approved June 20th, 1878, making the same a corporation of Idaho, Utah and Montana. It owned a line of railroad extending from Ogden, in Utah, to a terminus at Garrison, Montana;

The Utah Central Railway Company, a corporation existing under the laws of the territory of Utah, owning a railroad extending from Ogden to Frisco, with franchises extending to the western line of the territory of Utah; Frisco is a point on what was commonly known as a branch line extending from Milford to Frisco, and the main line of the Utah Central was authorized to be extended from Milford to the Utah-Nevada State line. The Utah Central Railway Company was itself a consolidated corporation, consisting of what was formerly the Utah Central Railway and the Utah Southern Railway, and the Utah Southern Extensions Company;

Also the Salt Lake & Western Railroad Company, a Utah corporation owning the railroad from Lehigh Junction on the Utah Central Railway to Tintic, in Utah, and certain branch lines;

Also the Utah and Nevada Railway Company, a Utah corporation owning a railroad from a connection with the Utah Central
7952 Railway Company at Salt Lake City, westward into Tuele County, with a branch line;

Also the Ogden & Syracuse Railway Company, a Utah corporation, owning a railroad connecting with the Utah Central at Syracuse Junction, a point about ten miles south of Ogden, and extending westward about 5.81 miles;

Also the Idaho Northern Railway Company, a corporation under the laws of Wyoming Territory, owning a railroad from a connection with the Oregon Short Line at Nampa, and extending to Boise City, a distance of 24.94 miles; and,

Finally, the Nevada-Pacific Railway Company, a Nevada corporation already referred to. This last named corporation is authorized among other corporate powers, to construct and connect its road with the Utah-Central Railway Company's road. It was proposed by this Company to build and operate a road from a point on the eastern boundary line of the State of Nevada near Pioche, in Lincoln County, and thence in a southwesterly course across the State of Nevada, to the western boundary of that State, with two branch lines.

(3) It will thus be seen that of the constituent corporations, the Oregon Short Line was the original east and west line from Granger to Huntington, and the Utah & Northern Railway Company, the north line from Ogden to Garrison, while the Utah Central Railway Company was the south line from Ogden to Frisco, with a franchise extending to the western line of the territory of Utah, and the Nevada Pacific Railway Company was the line across the State of Nevada authorized to connect with this Utah Central Railway Com-
7953 pany. The other roads were spurs out of the Utah-Central Railway Company, with the exception of the Idaho Northern Railway Company, which was a spur of the Oregon Short Line Railway Company from Nampa to Boise City.

(4) The term of the consolidated corporation was fifty years. Its corporate name was the Oregon Short Line & Utah Northern Railway Company. Its capital stock was $24,789,039.33. By Article 10 of said Consolidation Agreement, the consolidated company had all the powers of each of the constituent companies, and one of the routes of the railroads constructed and to be constructed under the consolidation, was described in the Articles as a road from the terminus of the Utah Central Railway Company, through the State of Nevada. These Articles of Consolidation were filed in the office of the Secretary of State for Nevada, August 1st, 1889.

(5) This consolidated company, the Oregon Short Line & Utah Northern Railway Company, made a consolidated first mortgage date August 1st, 1889, reference to which will be hereafter made in speaking of the foreclosure of that mortgage by the American Loan & Trust Company of Boston, which was the trustee named in the mortgage. On November 7th, 1889, the Oregon Short Line & Utah Northern Railway Company qualified itself under the Act of Congress of March 3rd, 1875, to obtain right of way through the public lands of the United States, by filing in the office of the Secretary of the Interior, in compliance with the regulations of the Land Department, approved January 13th, 1888, a certified copy of its Articles of Consolidation; also certified copies of the Incorporation Laws of the States of Nevada, Montana, Oregon and the territories of
7954 Wyoming, Utah and Idaho, those being the jurisdictions through which its franchise extended; also certificates from the Secretaries of those states and territories that the Articles of Consolidation had been filed according to law; also an official statement under the corporate seal that the consolidation had been completed, and that the Company was authorized to proceed with the

construction of its road, and in this statement was included a list of the President and officers of the Company.

(6) On November 1st, 1889, the Board of Directors of the Oregon Short Line & Utah Northern Railway Company, at a Board meeting, took up the proposed extension of the constituent Company, the Utah Central Railway Company, from Milford, a point in southwestern Utah, to Barstow, a point in the State of California on the line of the Sante Fe system. And the Board authorized the President to take the necessary steps to extend the present line of the Company's road from Milford southwesterly to Pioche, a distance of 120 miles. Pioche is a point in southeastern Nevada, in a mining region, and is reached by a short spur from Caliente in Nevada, north to Pioche. The main line construction, therefore, authorized was from Milford in southwestern Utah, to Caliente in Nevada. Caliente is in southeastern Nevada about forty miles from the Nevada-Utah line.

(7) On December 21st, 1889, the Board of Directors passed a resolution for the extension of the road from Frisco southwesterly, to the eastern boundary of Nevada, and thence to Pioche, Lincoln County, Nevada. Frisco is on a spur extending west from the main line at Milford and the relation, geographically, of Frisco to
7955 Milford is analogous to that of Pioche to Caliente, the one being in southwestern Utah, and the other in southeastern Nevada. And, for the purpose of extending the line to Pioche, the Board, as provided by its Articles of Consolidation, resolved to increase the capital stock from $24,789,039.33 to $27,000,000. At the board meeting on March 10th, 1890, the President submitted to the Board the approval as required by law, and said articles of the stockholders, to the increase of the capital stock. 205,132 shares united in the approval of the increase of capital stock. The Secretary of the Company was instructed by the Board to file the amendment to the Articles of Consolidation, thus increasing the capital stock under the seal of the Company, in the office of the Secretaries of the several jurisdictions through which the franchises of the road extended.

(8) At the same meeting of March 10th, 1890, the question of surveys was taken up, and a resolution was adopted reciting that by direction of the Company, its chief engineer had caused to be made, certain surveys of the line of route of the company's road, and the surveys are set out in the resolution, numbered from 29 to 34 inclusive, and covering two 20 mile sections, one section of 13.29 miles, one of 12 miles, and one of 8.56 miles, and the last one, No. 34, not expressed in terms of distance, but over a tract containing ten acres.

Surveys 29 and 30 cover a distance of 20 miles each upon the line of road in Nevada and towards Caliente, and the said route shown of said surveys 29 and 30, was adopted by the board as the definite location of the road of the Company, and the same were directed to
be filed in the office of the Secretary of the Interior as re-
7956 quired by the regulations of the Department and the statute.

Surveys Nos. 31, 32, 33 and 34 do not relate to southern construction.

At this same meeting, the board approved the surveys Nos. 29 and 30 covering 40 miles, and being the surveyed line from Uvada to Caliente, and said line from Uvada to Caliente as shown by the maps was adopted by the board as the definite location of the road, and it was voted that the maps be filed with the proper local land offices in Nevada, Utah and Idaho, and in the Department of the Interior.

(9) At a meeting of the Executive Committee of the board held on March 28th, 1890, there was approved a map and survey of the line of route of the Company shown on Map No. 35, for a distance of 20 miles, and Map No. 36, covering an additional 10.41 miles, being the line from Caliente to Pioche. And the same were adopted by the board as the line of definite location of the road, and the maps were directed to be filed for approval in the manner provided by law.

This mileage, namely the 40 miles covered by Surveys 29 and 30, and the 30.41 miles covered by Surveys 35 and 36, being in all 70.41 miles from Uvada to Pioche, was actually graded, and it was the subject of a controversy between the Short Line Company and the San Pedro Company, which will be hereinafter described.

It may be said here for clearness that at the time of this meeting of March 10th, 1890, the railroad construction south in Utah had extended as far as Milford. Milford was the most southern
7957 point of actual railroad construction and operation, for there was an operated railroad to Milford at this time. South of Milford the railroad construction had not been made, but was provided for as already shown, and the surveys we have last spoken of took care of the line from Uvada to Caliente, and from Caliente to Pioche. Uvada is a point on the Utah-Nevada State line; hence its name, and the construction by the aforesaid surveys from Uvada to Caliente, and thence to Pioche, was the Nevada construction. These surveys did not touch the proposed construction in Utah between Milford and Uvada.

(10) On May 24th, 1890, the Executive Committee of the Board of Directors of the Oregon Short Line & Utah Northern Railway Company, upon estimates appropriated for "Construction of line from Milford to Pioche" the sum of $2,803,400. I have not mentioned the filing of surveys and maps specifically as between Milford and Uvada, because this portion of the line was never in controversy between the San Pedro Company and the Short Line, although such maps were in fact filed by the Oregon Short Line Railroad Company, and approved by the Department.

(11) During this period, quite a number of votes were taken by the Board of Directors of the Oregon Short Line & Utah Northern Railway Company, selecting for approval by the Department, station grounds for various portions of the line between Milford and Pioche.

On September 25th, 1890, the Executive Committee of the Board of Directors of the Oregon Short Line & Utah Northern Railway Company, considered further maps and surveys of the line of the route of the Company's railroad as follows:

Map No. 54, 20 miles southwesterly from Caliente toward
7958 the California line; Map No. 55, an additional 20 miles southwesterly from Caliente, and extending from the 20 miles mentioned in Map No. 54; Map No. 56, covering the next 20 miles southwesterly across the California State line; Map No. 57, covering the next 20 miles, still in a southwesterly direction and towards the California State line; Map No. 58, the next 20 miles, a distance of 20 miles southwesterly from the map last above referred to; Map No. 59, covering a distance of 20 miles next southwesterly from the map last above mentioned; Map No. 60, covering a distance of 20 miles further still southwesterly extending from the end of the section last above named; Map No. 61, another map of 20 miles extending still southwesterly toward the California State line from the end of the section last above named.

The above maps and profiles, 54 to 61, inclusive, cover all the territory upon which the Company proposed to build its line southwesterly from Caliente to the California State line, except 14.42 miles, which will be hereafter described, and the above maps and profiles were, at said meeting, by the board adopted as the line of definite location of the road and the maps were approved and were forwarded to the Secretary of the Interior for his approval, and for filing in the Department, in order that the Company might obtain in respect thereto, the benefits of the Act of Congress of March 3rd, 1875, and the said maps were afterwards approved by the Secretary of the Interior pursuant to the regulations of the Department in force at that time.

On November 5th, 1890, the Executive Committee again considered
maps and surveys, namely Map No. 62, extending southerly or westerly from the end of a grant described in Map No. 61 to
7959 the California State line, a distance of 14.42 miles, and took the same action in respect to said map, as to its approval and the filing of the same in the proper land offices, and the said map was afterwards approved by the Department of the Interior.

The above facts show the adopted line from the Utah State line to the California State line, and the adopted line for the branch to Pioche, all of which were approved by the Department of the Interior.

There is no record in local land office at Carson City of date of first filing of U. N. & C. maps of February 23, 1899, Uvada to Caliente, but the engineer affidavits thereon were executed April 12, 1899, and the register and receiver at Carson transmitted the maps to the general land office at Washington on April 27, 1899, so they must have been filed in local land office between these dates. Maps of O. S. L. and U. N. numbers 54 to 61 inclusive were filed in local land office at Eureka, Nevada, on October 25, 1890, and were each marked approved by the Secretary of Interior in the following language

"Department of the Interior, November 22, 1890. Approved subject to all valid existing rights. John W. Noble, Secretary." Map number 62 same company filed in U. S. Land Office at Eureka, Nevada, November 17, 1890, and Approved by the Secretary of the Interior on December 29, 1890, in same language as above. There is no record endorsed on maps 54 to 62 inclusive of date they were relodged in local land office.

(12) In the year 1890 the Oregon Short Line & Utah Northern Railway Company, commenced construction at Milford and
7960 graded its line as a roadbed, practically complete, from Milford to Caliente, and very largely completed from Caliente to Pioche, and it continued this construction until October 14, 1890, when, by reason of the financial embarassment of that Company and of the Union Pacific Railway Company, it suspended operation.

As shown in the injunction suit hereinafter referred to, by testimony, the amount expended by the Oregon Short Line in grade construction from Milford to Caliente and Pioche was $979,647.24, and the amount expended upon said work within the limits of the State of Nevada, namely, from Uvada to Caliente and Pioche was $675,-264.13. This last named work, and the value thereof, was the subject of the controversy between the parties as hereinafter set forth. At the time of the suspension of this work, the Short Line Company had laid some few miles of rails beyond Milford, probably three or four, but the track not being completed, and the construction of the work suspended, the rails beyond Milford were taken out.

(13) It was shown in the injunction suit hereinafter mentioned, that on December 31st, 1890, the Oregon Short Line had a funded debt of $49,606,000, and a floating debt of $1,791,733.99, exclusive of the amount due contractors for construction work on its line between Milford and Pioche.

That on December 31st, 1891, it was indebted to the Union Pacific Railway Company on advances and back account, in the sum of $4,639,531.68, which was in addition to the amount of its funded debt as of that date.

It was also shown, and is true, that the said Short Line
7961 Company had pledged and hypothecated with the Union Pacific Railway Company, all of the bonds and stocks then owned by the Short Line Company, so that after September, 1891, the Oregon Short Line Company was without resources to meet its funded or floating debt, except from its current earnings.

It was also shown in said suit that the income of the said Short Line Company for each of the years 1890 and 1891 was insufficient to pay the fixed charges; the deficit for the year 1890 being $1,396,-682.84, and that the amount of such deficit for the year 1891 was $409,107.46.

Question 3. What was the relation, the inter-corporate relation, of the Union Pacific and the Oregon Short Line & Utah Northern Railway Company in respect to stock ownership at this time?

Answer: (1) There was outstanding about that time, the capital stock of the Oregon Short Line & Utah Northern Railway Company in the amount of $26,244,853.32, of which the Union Pacific Railway Company owned approximately $15,116,703.33. The Union Pacific Railway Company also owned large blocks of the bonds of the underlying companies embraced within the corporate organization of the Oregon Short Line & Utah Northern Railway Company.

(2) In the month of September, 1891, the Union Pacific Railway Company was also financially embarrassed, and unable to pay its debts, and at that time it hypothecated practically all of the stocks and bonds belonging to it, and in some cases to its sub-ordinate companies under the three year trust obligation known as the Drexel-Morgan Trust, to raise funds with which to pay its floating indebtedness. The amount raised in this manner was approximately
7962 $20,000,000. The financial embarrassments of the Union Pacific and of the Short Line Railroad continued, and by reason thereof, certain suits were instituted by Oliver Ames and others in the Circuit Court of the United States, for the Eighth and Ninth Circuits, in the territory of Utah, and in other jurisdictions, and Receivers for the properties of both of said companies were appointed in said suit on October 13th, 1893, and took possession of all of said properties.

(3) On October 8, 1893, Oliver Ames, Second, and Samuel Carr, Executors of the last will and testament of Frederick L. Ames, deceased, and Peter B. Wyckoff and Edwin F. Atkins, as complainants, brought their suits in the Circuit Court of the United States, for the District of Nebraska, as the court of original jurisdiction, and in the Circuit Courts of the United States for the States of Iowa, Missouri, Wyoming, Kansas, Colorado, Idaho, Montana and Oregon, and in the Territory of Utah against the Union Pacific Railway Company, the Oregon Short Line & Utah Northern Railway Company, and all of the companies constituting and embraced within what was known as the Union Pacific system of railroads, stating the aggregate amount of the indebtedness of the said several roads and defendants, the capital stocks, securities, the floating debts of each of them, the amount of indebtedness presently and from time to time maturing, and the indebtedness of the Union Pacific Railway Company to the United States of America, and prayed appropriate relief in respect of the several matters alleged in said bill, and amongst other things for the appointment of receivers in said several causes for all of the
7963 properties of the said defendants above named, and all of the defendants named in said suit.

That on the 13th day of October, 1893, there was appointed in said several courts as receivers of the properties named and described in said bill Messrs. S. H. H. Clark, E. Ellory Anderson and Oliver W. Mink, and that on said day the said receivers took possession of all and singular all of the properties of all of the said defendants wherever situated.

That on the 13th day of November, 1893, Richard Olney, Attorney General of the United States, in behalf of the United States, presented a petition in said courts for the appointment of additional receivers, and for other relief, as set forth in said petition, and that under the same such proceedings were had that on November 13, 1893, John W. Doane and Frederic R. Coudert were appointed additional receivers of said properties.

On May 4, 1898, an order was entered in said several causes accepting the resignations of the receivers hereinbefore named as to the properties of a number of the said defendants named in said original bill including the properties of the Union Pacific Railway Company, the Oregon Short Line & Utah Northern Railway Company, and others, and the court by said order appointed Oliver W. Mink and Thomas P. Wilson, as successory receivers of the general properties of the Union Pacific Railway Company, the Oregon Short Line & Utah Northern Railway Company, and other of the defendants, and the said five receivers above named were discharged.

Afterwards in said causes, on August 22, 1899, the said successory receivers were discharged as such as to all of the properties of the Oregon Short Line & Utah Northern Railway Company.

7964 At the time of the filing of the said Ames suit, the Oregon Short Line & Utah Northern Railway Company had outstanding capital stock in the amount of $26,244,853.32, of which the Union Pacific Railway Company had and owned $15,116,703.33, and it had outstanding securities issued by itself, or by its several constituent companies, the following mortgages:

1. The Idaho Central Railway Company's first mortgage $131,000.00, of which the Oregon Short Line & Utah Northern Railway Company owned $1,000.00.

2. The Oregon Short Line Railway Company's first mortgage, embracing the line from Granger, Wyoming, to Huntington, Oregon, and the branch line from Shoshone, Idaho, to Ketchum, Idaho, in the amount of $14,931,000.00, all of which was outstanding.

3. The Oregon Short Line & Utah Northern Railway Company's consolidated mortgage, dated August 1, 1889, in the amount of $10,894,000.00, of which $161,000.00 was owned by the Union Pacific Railway Company, and its constituent companies.

4. The Utah & Northern Railway Company's consolidated mortgage, dated July 1st, 1886, embracing the line from Ogden, Utah, to Garrison, Montana, in the amount of $1,831,000.

5. The Utah & Northern Railway Company's Equipment Trust, Lawful Money Bonds, dated April 1st, 1887, in the amount of $36,000.00.

6. The Oregon Short Line & Utah Northern Railway Company's Collateral Trust, Currency Bonds, dated September 2, 1889, in the amount of $13,000,000.00, of which $17,000.00 were held in the sinking fund.

7. The Utah & Northern Railway Company's first mortgage, lawful money bonds, dated July 1st, 1878, in the amount of

7965 $4,993,000.00, of which $3,964,000.00 were held by the Union Pacific Railway Company and pledged by it.

8. The Utah Central Railroad Company's first mortgage Gold Bonds, dated January 1, 1870, in the amount of $1,000,000.00, of which $6,000.00 were outstanding, $1,000.00 were in the hands of the Treasurer of the Oregon Short Line & Utah Northern Railway Company, and $993,000.00 were held by the trustee under the Oregon Short Line & Utah Northern Railway Company's consolidated mortgage.

9. The Utah Southern Railway Company's first mortgage, dated July 1, 1871, of which $424,000.00 were outstanding.

10. The Utah Southern Railroad Company's first (general) mortgage lawful money bonds, dated July 1, 1879, of which there were outstanding $1,526,000.00.

11. The Utah Southern Railroad (Company's) Extension first mortgage bonds, dated July 1, 1879, of which there were outstanding $1,950,000.00, $982,000.00 thereof being owned by the Union Pacific Railway Company.

During the pendency of the above mentioned suit of Ames against the Union Pacific Railway Company, et al, from time to time, upon defaults occurring in the payment of interest upon certain mortgages of the said several defendants companies, or of underlying mortgages made by the constituent companies, or originally owning companies, and affecting separate portions of the said several properties, were from time to time brought in the courts of appropriate jurisdiction, and of said suits so brought against properties embraced in the railroads owned by the Oregon Short Line & Utah Northern Railway Company, were the following:

7966 (a) Joseph Richardson, Trustee, complainant, on August 30, 1894, filed his bill in the Circuit Court of the United States in and for the District of Utah, Idaho and Montana, against the Oregon Short Line & Utah Northern Railway Company, the Union Pacific Railway Company, the American Loan & Trust Company, and the Receivers above named, to foreclose upon $4,495,000.00 first mortgage bonds issued by the Utah & Northern Railway Company under its mortgage dated July 1, 1878, embracing the properties extending from Ogden, Utah, to Garrison, Montana, and in said suit on August 31, 1894, the said S. H. H. Clark, Oliver W. Mink, E. Ellery Anderson, Frederick R. Coudert and John W. Doane were duly appointed receivers under said mortgage, of the mortgaged properties therein described, and said receivers thereupon took possession of all of the said mortgaged property and operated the same as receivers in said cause until the final discharge of the receivers acting therein upon the purchase of said property by the Oregon Short Line Railroad Company, hereinafter named.

(b) On August 28, 1894, John F. Dillon, Trustee, complainant, brought bills to foreclose, in the Circuit Courts of the United States for the District of Wyoming, Idaho and Oregon, against the Oregon Short Line & Utah Northern Railway Company, the Union Pacific

Railway Company, and the above mentioned receivers. This bill was one to foreclose a certain mortgage given by the Oregon Short Line Railway Company to Frederick L. Ames and John F. Dillon, as Trustees, on the date of November 1st, 1881, which mortgage embraced the property belonging to the Oregon Short Line & Utah Northern Railway Company extending from Granger, in Wyo-
7967 ming, to Huntington, Oregon, with a branch line extending from Shoshone to Ketchum, in Idaho. In said cause on said date the Court appointed the same five persons above mentioned as receivers of the mortgaged property, and they continued to operate said mortgaged property from the date of their appointment until they surrendered said mortgaged property, about March 15, 1897, to the Oregon Short Line Railroad Company, the purchaser thereof under the proceedings hereinafter mentioned.

(c) On September 4, 1894, James M. Ham, as Trustee, and complainant, brought his bill in the Third Judicial District Court of Utah Territory, against the Oregon Short Line & Utah Northern Railway Company, the Union Pacific Railway Company, the American Loan & Trust Company, and the receivers above mentioned. This bill was brought for the purpose of foreclosing a certain mortgage known as the Utah Southern Railroad Company's general mortgage, dated July 1st, 1879, to William H. Hooper, and James M. Ham, as Trustees. On September 4, 1894, the said Court appointed the same five persons as receivers of the mortgaged property described in the said bill of complaint and mortgage, which property is generally described as the railroad of said company commencing at Salt Lake City, and running thence in a southerly direction to Juab, in said State of Utah, and the said receivers in said cause operated the railroad properties mentioned and described in the said complainant's bill as receivers therein until about March 15, 1897, when in pursuance of the orders of the Court in that behalf duly made, they surrendered the possession of the same to the purchasers thereof under a sale of said property under decree in the above entitled cause, and to the purchasers under a decree entered in the case of the American Loan & Trust Company against the Oregon Short Line
7968 Railroad Company for the purpose of foreclosing the consolidated mortgage of the Oregon Short Line & Utah Northern Railway Company, as hereinafter recited.

(d) On September 4, 1894, James M. Ham, as Trustee, and complainant, brought his bill in the Third Judicial District Court of Utah territory, against the Oregon Short Line & Utah Northern Railway Company, the Union Pacific Railway Company, the American Loan & Trust Company, and the receivers above mentioned. This bill was brought for the purpose of foreclosing a certain mortgage known as the Utah Southern Railroad (Company's) Extension mortgage, dated July 1st, 1879, to William H. Hooper and James M. Ham, as Trustees. On September 4, 1894, the said Court appointed the same five persons as receivers of the mortgaged property described in the said bill of complaint and mortgage; which property is generally

described as the railroad line of the said company extending from Juab, in the County of Juab, in a southerly direction through Juab, Millard and Beaver Counties, to Frisco, in the County of Beaver, in the Territory of Utah, a distance of 130 miles; and the said Receivers in said cause operated the railroad properties mentioned and described in the said complainant's bill as receivers therein until about March 15, 1897, when in pursuance of the orders of the Court in that behalf duly made, they surrendered the possession of the same to the purchasers thereof under a sale of said property under decree in the above entitled cause, and to the purchasers under a decree entered in the case of the American Loan & Trust Company against the Oregon Short Line Railroad Company for the purpose of foreclosing the consolidated mortgage of the Oregon Short Line & Utah Northern Railway Company, as hereinafter recited.

7969 (e) On December 24, 1894, the American Loan & Trust Company, Trustee, and as complainant, brought its certain bill in the Circuit Court of the United States for the District of Oregon, and in the Districts of Idaho and Montana, and the Third Judicial District of Utah, against the Oregon Short Line & Utah Northern Railway Company, which bill was brought for the purpose of foreclosing a certain mortgage made by the Oregon Short Line & Utah Northern Railway Company, under date of August 1st, 1889, and known as the consolidated mortgage of said company, to secure an issue of mortgage bonds therein described; that no receivers were appointed in said suit of the American Loan & Trust Company, but that upon final hearing of said cause, upon answers of the parties and proofs taken, a final decree of foreclosure and sale of the property mentioned in said bill was entered, directing the sale of said property under the terms and conditions in said decree recited, but the said property was to be sold subject to the prior lien upon the same as found and determined by said decree. In said proceeding, the decree was duly executed and the property sold pursuant to the terms thereof to Samuel Carr, et al, as purchasing committee to purchase the property for and on behalf of the Oregon Short Line Railroad Company, and said purchasers thereupon and thereafter filed in the said Courts in which the hereinbefore mentioned foreclosure suits were pending, and also in the Circuit Courts of the United States, wherein the said Ames suit above mentioned was pending, their petition requiring the receivers in said several causes to surrender and deliver the possession of the properties named in the said several suits,

and also embraced in the decree in this cause, to said purchas-

7970 ers of said property. The Special Master who made the sale in said Oregon suit, made report of sale and the same were duly confirmed, and a deed was made, executed and delivered by him to Oregon Short Line Railroad Company conveying to it all of the said properties, and upon the petition of said purchasing committee of the Oregon Short Line Railroad Company, decrees were entered and made in all of the other suits hereinbefore mentioned, directing the said Receivers to surrender and deliver the properties of the Oregon

Short Line & Utah Northern Railway Company, so purchased by the Oregon Short Line Railroad Company, to said last named company, and the said deliveries were made in pursuance to said decree on or about the 15th day of March, 1897. The deed made by the said Special Master to Oregon Short Line Railroad Company was dated February 23, 1897, and embraced all of the properties described in the bill to foreclose in said case, which embraced all the railroads of the said Oregon Short Line & Utah Northern Railway Company as described in said consolidated mortgage and in the said several underlying mortgages, and the same recited that—

"Said properties are situate in the States of Oregon, Idaho, Montana, Wyoming, Nevada and Utah, and elsewhere. The intention of the said decrees and sale, however, and of this deed and transfer being to convey, and hereby conveying all of the said railway properties, and other property, of the Oregon Short Line & Utah Northern Railway Company expressed to be conveyed by the said consolidated mortgage, wherever the same may be situated, free from any interest or claim therein or thereto whatsoever by the Oregon Short Line & Utah Northern Railway Company, and by any or all persons claiming by, through or under it."

7971 The Oregon Short Line Railroad Company was organized on the 1st day of February, 1897, under a statute of the State of Utah, approved January 22nd, 1897, for the purposes set forth in its Articles of Incorporation, a copy of which has been introduced in evidence and marked Complainant's Exhibit 206 (page 3433).

It was organized for the purpose of purchasing, owning, maintaining, operating and further extending the railroad, rights, property and franchises formerly owned by the Oregon Short Line & Utah Northern Railway Company, and to construct or acquire, by lease, purchase, consolidation, ownership of capital stock, or otherwise, branches, extensions and connecting lines within or without this State (Utah), as the Directors of the Corporation may from time to time deem expedient, and as may be authorized by law.

The Utah & Pacific Railroad Company was a corporation of the State of Utah, organized on August 20th, 1898, for the purpose of constructing, equipping, acquiring, owning, maintaining and operating, by steam, electric or other motive power, a railroad by the most feasible route from Milford, Beaver County, in the State of Utah, southwesterly through the counties of Beaver and Iron, to the western boundary line of the State of Utah, a distance of about seventy-five miles. A certified copy of the Articles of Incorporation of said Company is herewith presented, marked Defendants' Exhibit 238 and offered in evidence.

Defendants' Exhibit 238 is as follows:

7972 DEFENDANTS' EXHIBIT 238.

(Kelly.)

ARTICLES OF INCORPORATION OF THE UTAH AND PACIFIC RAILROAD COMPANY.

UNITED STATES OF AMERICA.

State of Utah, County of Salt Lake, ss:

The undersigned, who are all citizens of the United States and three-fourths of whom are residents of the State of Utah, being desirous of forming a corporation for the purposes hereinafter mentioned, under, and pursuant to Title Eleven of the Revised Laws of Utah of 1898, and particularly under the provisions of Chapter Seven of said Title, on "Railroad Corporations," do hereby enter into and adopt the following agrement and

Articles of incorporation

ARTICLE I.

The name of this Corporation shall be the Utah and Pacific Railroad Company.

ARTICLE II.

This corporation shall continue in existence for the period of fifty

ARTICLE III.

This corporation is organized for the purpose of constructing, equipping, acquiring, owning, maintaining and operating, by steam, electric or other motive power, a Railroad by the most feasible route from Milford, Beaver County, in the State of Utah, southwesterly through the Counties of Beaver and Iron to the western bound-
7973 ary line of the State of Utah, a distance of about seventy-five miles.

ARTICLE IV.

The amount of the Capital Stock of the Corporation shall be, and is hereby fixed at the sum of Eight Hundred and Twenty-five Thousand Dollars, divided into Eight Thousand Two Hundred and Fifty shares of the denomination of One Hundred Dollars each.

ARTICLE V.

The principal office and place of business of this corporation shall be at Salt Lake City, in the State of Utah, where the company is organized, and its general business shall be carried on in said City, but the Corporation may have branch offices elsewhere, as may be determined by the Board of Directors.

ARTICLE VI.

The officers of this corporation shall consist of a Board of eight Directors, a President, a Vice-President, a Secretary and a Treasurer, whose qualifications shall be to own and hold stock in the corporation, and whose term of office shall be one year and until their successors shall be elected and qualified. Five of said Directors shall constitute a quorum for the transaction of business, and shall be authorized to exercise the corporate powers of the company. The President and Vice-President shall be members of the Board of Directors and shall be included in the Eight Directors composing the same. The Secretary and Treasurer may be elected from the Board of Directors or not, as the Board may determine.

ARTICLE VII.

The following named persons shall be the officers and
7974 Directors of said Corporation, and hold their office till the first election in April, 1899, and until their successors are duly elected and qualified.

Alfred W. McCune, President and Director.
David Eccles, Vice-President and Director.
William L. Hoge, Director and Secretary.
Charles W. Nibley, Director and Treasurer.
Joseph F. Smith, Director.
Richard Mackintosh, Director.
Robert C. Lund, Director.
Thomas D. Dee, Director.

ARTICLE VIII.

There shall be a general meeting of the stockholders of the corporation held on the second Tuesday of April, 1899, and annually thereafter on said day, at such hour and place as the Board of Directors may determine, in the City and County of Salt Lake, State of Utah, for the purpose of electing Directors of said Corporation, and for the transaction of other business. Voting at such meetings shall be by ballot. Immediately after the election, the Secretary of the meeting shall notify the Directors elected, and, within thirty days thereafter, they shall meet and organize as a Board, and shall elect a President, a Vice-President, a Secretary and a Treasurer.

ARTICLE IX.

The Board of Directors of this Corporation shall have power to manage and control the business of the Corporation; to make,
7975 execute and issue bonds and secure the same by mortgage, lien, or pledge on the company's property, acquired or to be acquired; to make all contracts necessary and proper to carry into effect the

objects of the corporation, and to make such by-laws, not inconsistent with the Laws of Utah, as they may deem proper for the management of the affairs of the Company.

ARTICLE X.

Any or either of the Officers or Directors of the corporation may be removed at a Stockholders' Meeting, duly called and held to consider the question of such removal, when the holders of two-thirds majority of the capital stock of the corporation represented at such meeting, either personally or by proxy, vote for such removal; and either or any of said Officers or Directors may resign by filing a written resignation with the Secretary, ten days before the same is to take effect, but the Board may accept such resignation on shorter notice. Vacancies caused by any such removal or resignation, or by death or disability, may be filled by the Board of Directors.

ARTICLE XI.

The actual cost of constructing said railroad, together with the cost of the right-of-way and the equipment of said Railroad, including engines, cars, complete rolling stock, station and engine buildings, shops, water tanks, and every appurtenance and thing for the completion and running of said Railroad, as nearly as the same can be estimated by competent engineers, is the sum of One Million Five Hundred Thousand Dollars for the entire Railroad.

7976 ARTICLE XII.

The names, places of residence, number of shares, and amount of capital stock taken by each subscriber hereto (who is a party to this agreement and one of the incorporators) are as follows, to-wit:

Names.	Places of residence.	Number of shares.	Amt. of stock.
Alfred W. McCune	Salt Lake City, Utah	187 shares	$18,700.00
David Eccles	Ogden City, Utah	186 "	18,600.00
William L. Hoge	Anaconda, Montana	187 "	18,700.00
Charles W. Nibley	Baker City, Oregon	186 "	18,600.00
Joseph F. Smith	Salt Lake City, Utah	1 "	100.00
Richard Mackintosh	Salt Lake City, Utah	1 "	100.00
Robert C. Lund	St. George, Utah	1 "	100.00
Thomas D. Dee	Ogden City, Utah	1 "	100.00
		750 "	$75,000.00

ARTICLE XIII.

The individual or private property of the stockholders of this Corporation shall not be liable for the debts, liabilities or obligations of the Company.

In witness whereof, we have hereunto set our hands and seals this 19th day of August, A. D. 1898.

ALFRED W. MCCUNE,	[SEAL.]
DAVID ECCLES,	[SEAL.]
WILLIAM L. HOAG,	[SEAL.]
CHARLES W. NIBLEY,	[SEAL.]
JOS. F. SMITH,	[SEAL.]
R. MACKINTOSH,	[SEAL.]
ROBERT C. LUND,	[SEAL.]
THOMAS D. DEE,	[SEAL.]

Signed, sealed and Delivered in presence of:
E. E. SARGEANT.
F. S. RICHARDS.

7977 STATE OF UTAH,
County of Salt Lake, ss:

On this 19th day of August, A. D. 1898, personally appeared before me, the undersigned, a Notary Public in and for the County of Salt Lake and State of Utah, Alfred W. McCune, David Eccles, William L. Hoge, Charles W. Nibley, whose names are subscribed to the foregoing agreement and Articles of Incorporation, as parties thereto, and who executed the same, and the said parties severally duly acknowledged to me, each for himself, that they and each of them respectively, executed the same, freely and voluntarily, and for the uses and purposes therein mentioned.

In witness whereof, I have hereunto set my hand and affixed my official seal, at Salt Lake City, State of Utah, the day and year above written.

[SEAL.] FRANK D. RICHARDS,
Notary Public.

STATE OF UTAH,
County of Salt Lake, ss:

We, Alfred W. McCune, David Eccles, William L. Hoge, Charles W. Nibley, being the same persons whose names are in and who subscribed the foregoing Agreement and Articles of Incorporation, being severally duly sworn according to law, on our several oaths do say, that capital stock in the corporation mentioned in the foregoing Agreement, to the amount of One Thousand Dollars for each mile in length of the proposed railroad, namely, Seventy-five
7978 Thousand Dollars, has been subscribed, and that ten per cent. of the stock subscribed by each stockholder has been paid in cash to the Treasurer of said Company, and affiants verily believe that each party to said Agreement is able to, and will pay the amount

of stock subscribed for by him. Affiants further say that it is bona fide their intention to commence to construct the railroad and carry on the business mentioned in said agreement.

ALFRED W. MCCUNE,
DAVID ECCLES.
WILLIAM L. HOGE.
CHARLES W. NIBLEY.

Subscribed and sworn to before me this 19th day of August, A. D. 1898.

[SEAL.] FRANK D. RICHARDS, *Notary Public.*

STATE OF UTAH,
County of Salt Lake, ss:

I David C. Dunbar, County Clerk in and for the County of Salt Lake, State of Utah, do certify that the Utah and Pacific Railroad Company has duly filed in my office the Agreement of Incorporation, duly acknowledged, together with the oath of the incorporators and oath of office of each officer, as required by Chapter 1 of Title II, Revised Statutes of Utah.

In witness whereof, I have hereunto set my hand and affixed my official seal this 20th day of August, 1898.

DAVID C. DUNBAR, *County Clerk.*
[SEAL.] By ALBERT SPENCER, *Deputy Clerk.*

10 cents in Rev. Stamps.

7979 STATE OF UTAH,
County of Salt Lake, ss:

I, David C. Dunbar, County Clerk in and for the County of Salt Lake, State of Utah, do hereby certify that the foregoing is full, true and correct copy of the Articles and Certificate of Incorporation and Oath and Acknowledgment of incorporators of the Utah and Pacific Railroad Company as appears of record in my office.

In witness whereof, I have hereunto set my hand and affixed my official seal this 20th day of August, 1898.

[SEAL.] DAVID C. DUNBAR, *County Clerk.*
By ALBERT SPENCER, *Deputy Clerk.*

10 cent Rev. Stamp.

Certificate attached:

UNITED STATES OF AMERICA, (10c Revenue
State of Utah, Office of the Secretary of State, ss: Stamp.)

I, James T. Hammond, Secretary of State of the State of Utah, do hereby certify that the foregoing is a full, true and correct copy of Certified Copy of Articles of Incorporation of the Utah and Pacific Railroad Company, filed in my office August 20th, 1898, as the same appears on file in my office.

In testimony whereof, I have hereunto set my hand and affixed the Great Seal of the State of Utah, this 18th day of April, A. D. 1901.

(Sgd) J. T. HAMMOND,
Secretary of State.

The Great Seal of The State of Utah 1896.

Endorsed on Cover: K-15. No. 709 U. S. Circuit Court Ninth Circuit. District of Nevada. Utah, Nev. & Cala. Rd. Co. v. The Utah & Cala. Ry. Co. et al. Articles of Incorporation Utah & Pacific Rd. Co. Plffs. Exhibit No. 41.

Filed June 25, 1901. T. J. Edwards, Clerk.

7980 On the 16th day of August, 1898, the gentlemen who were interested therein, namely, Mr. A. W. McCune, David Eccles, Charles W. Nibley and William L. Hodge, made a certain agreement with the Oregon Short Line Railroad Company, providing for the organization by said last named parties of the Utah & Pacific Railroad Company. This contract is the same one offered in evidence by the Complainant, and is to be found at page 2436 of the printed record. It reserves to the Oregon Short Line the right to purchase all the stock, securities and properties of said Utah and Pacific Railroad Company, at prices and upon terms and conditions in said contract specified.

During the month of May, 1900, the Short Line Company took from the said Utah and Pacific Railroad Company, of its first mortgage bonds, the amount of $279,000. In the early part of April—April 9th, 1901, the Short Line Company took over the capital stock of the Utah & Pacific Railroad Company, in the amount of $825,000, and during that month they also took over the remainder of the first mortgage bonds of said Utah & Pacific Company, and took possession of and operated the properties thereof thereafter.

Pursuant to said contract, the said Utah & Pacific Company made and filed its maps of definite location, locating its line of railroad upon and coincident with the line of adopted road of the Oregon Short Line & Utah Northern Railway Company, extending from Milford to Uvada. The Oregon Short Line Railroad Company became the successor by purchase at foreclosure sale, of the physical properties of the original consolidated company, the Oregon Short Line & Utah Northern Railway Company, as heretofore shown
7981 by copy of extract from the deed. It took also from the said Oregon Short Line Railroad Company, and from the Oregon Short Line & Utah Northern Railway Company, the assignment of the rights of said companies in and to the graded roadbed formerly of the Oregon Short Line & Utah Northern Railway Company, and to the rights of said company and its successor, the Oregon Short Line Railroad Company, to its right of way secured under the profile maps made and filed in the Department of the Interior by said Company in the year 1890, and caused the same to be filed in the office of the Secretary of the Interior. This right of way was coincident in

length with the graded roadbed extending from Milford to the Utah-Nevada State line.

About the year 1896 the Utah & California Railroad Company, a corporation of the State of Utah having power to build a railroad within said State only, also adopted a line of railroad, and filed the maps thereof, which line of adopted road and maps was coincident with the original right of way of the Oregon Short Line & Utah Northern Railway Company as defined in its maps filed in the Department of the Interior in 1890. The maps so filed by the Utah & California Company were never approved, but the Utah & California Company made an assignment of all its rights obtained by virtue of its said adoption of line and filing of maps, to the Utah & Pacific Railroad Company, after which the Department of the Interior approved the maps filed on behalf of said Utah & Pacific Company, and it became, therefore, vested with the rights thereto under the law of March 3rd, 1875, from Milford to the Nevada State line.

7982 A copy of said assignment is marked Defendants' Exhibit 239 and is offered in evidence.

Defendants' Exhibit 239 is as follows:

DEFENDANTS' EXHIBIT 239.

(Kelly)

F. M. N. *Department of the Interior.*

GENERAL LAND OFFICE.

WASHINGTON, D. C., *July 13, 1907.*

I, Fred Dennett, Acting Commissioner of the General Land Office, do hereby certify that the annexed copies are true and literal exemplifications of the originals on file in this office.

In testimony whereof, I have hereunto subscribed my name and caused the Seal of this Office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] (Sgd.) FRED DENNETT,
Acting Commissioner of the General Land Office.

7983 *Know all men by these presents*, that, whereas, the Utah and California Railway Company, a corporation organized and existing under the laws of Utah, has heretofore filed maps in the United States Land Office, and made application for right-of-way to construct a line of railroad from Milford, in a southwesterly direction to and beyond the western boundary line of the State of Utah, and the Oregon Short Line Railroad Company protested against the granting of said right-of-way; and

Whereas, on the 13th day of December, A. D., 1898, the Utah and California Railway Company sold, conveyed and transferred to

"David Eccles, Charles W. Nibley, Alfred W. McCune, and William L. Hoge, all of its right, title, interest and claim in and to the railroad grade, extending from Milford in a southwesterly direction to the western boundary line of the State of Utah, a distance of about seventy-five miles, said grade being upon the line surveyed and located for the Utah and California railroad, as appears from the maps heretofore filed in the United States Land Office for the purpose of obtaining a right-of-way over the public lands," and

Whereas, the said parties last above named have organized a corporation under the laws of the State of Utah, known as the "Utah and Pacific Railroad Company," and have disposed of all of their rights, title and interest in said grade to said Company;

Now, therefore, in consideration of the premises, and of the sum of One Dollar to them in hand paid by the said Utah and Pacific Railroad Company, the said David Eccles, Charles W. Nibley, Alfred W. McCune and William L. Hoge, do hereby grant, bargain, sell and convey to the said Utah and Pacific Railroad Company, a corporation organized and existing under the laws of Utah, with its principal place of business at Salt Lake City, Utah, all of their right, title,
7984 interest and claim in and to the railroad grade extending from Milford in a southwesterly direction to the western boundary line of the State of Utah, a distance of about seventy-five miles; said grade being upon the line surveyed and located for the Utah and California Railroad, as appears from the maps heretofore filed in the United States Land Office for the purpose of obtaining a right-of-way over the public lands.

To have and to hold the same, with the appurtenances, unto the said Utah and Pacific Railroad Company, its successors and assigns forever.

In witness whereof, the said David Eccles, Charles W. Nibley, Alfred W. McCune and William L. Hoge have hereunto set their hands and seals, this 14th day of December, A. D. 1898.

A. W. McCune. [SEAL.]
David Eccles. [SEAL.]
C. W. Nibley. [SEAL.]
W. L. Hoge. [SEAL.]

Done in the presence of:
F. S. Richards
George Westervelt

State of Utah,
County of Salt Lake, ss:

On this 14th day of December, A. D., 1898, personally appeared before me Alfred W. McCune, one of the signers of the above instrument, who duly acknowledged to me that he executed the same.

[SEAL.] George Westervelt,
Notary Public.

Revenue Stamp, Ten Cents, Cancelled
Commission expires May 17, 1901.

STATE OF UTAH,
County of Salt Lake, ss:

On this 15th day of December, A. D., 1898, personally
7985 appeared before me David Eccles and Charles W. Nibley,
two of the signers of the above instrument, who severally duly acknowledged to me that they, and each of them, executed the same.
[SEAL.] GEORGE WESTERVELT,
Notary Public.

Revenue Stamp Ten Cents—Cancelled.
My Commission expires May 17, 1901.

STATE OF MONTANA,
County of Deer Lodge, ss:

On this 20th day of December, A. D., 1898, personally appeared before me, William L. Hodge, one of the signers of the above instrument, who duly acknowledged to me that he executed the same.
[SEAL.] E. D. MATTS,
Notary Public Deer Lodge County, Montana.

Revenue Stamp Ten Cents Cancelled.
3127.

Filed for record and recorded this 12th day of Jan. A. D., 1899, at 11-55 A. M. in Book N, page 623. Effie Matthews, Co. Recorder.
[SEAL.]

No. 2290.

Filed for record and recorded January 20th A. D. 1899 at 2 P. M. in Book M of Deeds of Iron County Records Page 248. Tryphena West, Recorder.
[SEAL.]

STATE OF UTAH,
County of Iron, ss:

I, Tryphena West, County Recorder of the County of Iron, in the State of Utah, do hereby certify that the annexed is a full, true and
correct copy of the foregoing transfer of David Eccles,
7986 Charles W. Nibley, Alfred W. McCune and William L. Hoge to the Utah and Pacific Railroad Company, Recorded in Book M of Deeds on Page 248, of Iron County Records, on January 20th, 1899, at 2 P. M. And the whole thereof as the same appears of record in my office. In Witness Whereof I have hereunto set my hand and affixed my Official Seal this 14th day of February, A. D., 1899.

(Stamp) [SEAL] TRYPHENA WEST,
County Recorder of Iron County, Utah.

Filed Nov. 31/99 1899. 43433.
Department of the Interior received Oct 27 1899 L. & R. R. Div. 4441.

7987 *Know all men by these presents*, that, whereas, the Utah and California Railway Company, a corporation organized and ex-

isting under the laws of Utah, has heretofore filed maps in the United States Land Office and made application for right-of-way to construct a line of railroad from Milford in a southwesterly direction to and beyond the western boundary line of the State of Utah, and the Oregon Short Line Railroad Company protested against the granting of said right-of-way; and

Whereas, on the 20th day of July, 1898, at a meeting of the Board of Directors of the said Utah and California Railway Company, a resolution was adopted authorizing and directing the President and Secretary of said corporation to make, execute and deliver to David Eccles, Charles W. Nibley, Alfred W. McCune and their associates, for the consideration of $1.00, a good and sufficient conveyance of all the right, title, interest and claim of the said Utah and California Railway Company in and to said grade, extending from Milford in a southwesterly direction to the western boundary line of the State of Utah, a distance of about seventy-five miles.

Now, therefore, in consideration of the premises and of the sum of $1.00 to it in hand paid by the said David Eccles, Charles W. Nibley, Alfred W. McCune and William L. Hoge, their associate, the said Utah and California Railway Company does hereby grant, bargain, sell and convey to the said David Eccles, Charles W. Nibley, Alfred W. McCune and William L. Hoge, all of its right, title, interest and claim in and to the railroad grade, extending from Milford in a southwesterly direction to the western boundary line of the State of Utah, a distance of about seventy-five miles: said grade being
7988 upon the line surveyed and located for the Utah and California railroad, as appears from the maps heretofore filed in the United States Land Office for the purpose of obtaining a right-of-way over the public lands.

To have and to hold the same, with the appurtenances, unto the said David Eccles, Charles W. Nibley, Alfred W. McCune and William L. Hoge, their heirs and assigns forever.

In witness whereof the said Utah and California Railway Company has caused its name to be subscribed hereto and its corporate seal affixed, by its President and Secretary, duly authorized, this 13th day of December, A. D., 1898.

UTAH AND CALIFORNIA RAILWAY COMPANY.
By GEO. Q. CANNON, *President*,
and R. S. CAMPBELL, *Secretary*.

Done in the presence of:
JAMES JACK.
[SEAL.]

STATE OF UTAH,
County of Salt Lake, ss:

On the 13th day of December, A. D., 1898, personally appeared before me George Q. Cannon, who being by me duly sworn, did say that he is the president of the Utah and California Railway Company, a corporation, and that the foregoing instrument was signed in

behalf of said corporation by authority of a resolution of its Board of Directors, and the said George Q. Cannon acknowledged to me that said corporation executed the same.

GEO. Q. CANNON.

Subscribed and sworn to before me this 13th day of December A. D., 1898.

[SEAL.] JAMES JACK, *Notary Public.*

Revenue Stamped.

Ten Cents—Cancelled.

My commission expires Aug. 6th, 1901.

7989 3126.

Filed for record and recorded this 12th day of Jan. A. D., 1899, at 11-45 A. M. in Book H Page 621. Effie Matthews, Co. Recorder.

[SEAL.]

2229.

Filed for record and recorded January 20th, A. D. 1899, at 2 P. M., in Book M of Deeds of Iron County Records, Page 247.

[SEAL.] TRYPHENA WEST, *Recorder.*

STATE OF UTAH,

County of Iron, ss:

I, Tryphena West, County Recorder of the County of Iron, in the State of Utah, do hereby certify that the annexed is a full, true and correct copy of the foregoing transfer of the Utah and California Railway Company By its President, Geo. Q. Cannon, to David Eccles, Charles W. Nibley, Alfred W. McCune and William L. Hoge, recorded in Book M of Deeds on Page 247 of Iron County Records January 20th A. D. 1899, at 2 P. M. and the whole thereof as the same appears of record in my office. In witness whereof I have hereunto set my hand and affixed my official seal this 14th day of February A. D. 1899.

[SEAL.] TRYPHENA WEST,

County Recorder of Iron County, Utah.

(Stamp).

Department of the Interior. Received Oct. 27, 1899. L. & R. R. Div. 4441.

Filed March 31/99. 1899. 43433.

7990 To the honorable the COMMISSIONER OF THE GENERAL LAND OFFICE,

Washington, D. C.

Whereas the Oregon Short Line & Utah Northern Railway Company, a corporation of Utah, heretofore about the year 1890 filed its maps for the purpose of securing a right of way for a railroad in pursuance of the provisions of the Act of Congress of March 3, 1875, providing for the granting of right of way to railways through pub-

lic lands, which maps were heretofore approved by the Commissioner of the General Land Office; and,

Whereas in pursuance of such filing and of proper corporate action taken, the said Oregon Short Line & Utah Northern Railway Company partially constructed a railway grade along the line indicated upon said maps and extending from Milford in Beaver County, Utah, southwesterly to and near the line dividing the states of Utah and Nevada; and,

Whereas lately the Utah and Pacific Railroad Company, a corporation of the state of Utah, has located a line of railway on and along the line indicated upon said maps of the Oregon Short Line & Utah Northern Railway Company above referred to and is engaged in constructing a railway thereon and has completed and has in operation fifty miles or thereabouts of such railway line extending between the points aforesaid; and

Whereas the said railway company for the purpose of securing right of way through the lands of the United States has filed herewith its maps of the location of its line;

Now therefore in consideration of the premises and of the fact that the said Oregon Short Line & Utah Northern Railway Company has waived its right to construct upon said line and given its
7991 consent and acquiesced in the occupation of said line and construction thereon of the said railway by the said Utah and Pacific Railroad Company, the said Oregon Short Line & Utah Northern Railway Company does hereby give its consent to the filing of the said maps herewith presented and joins in the application for the approval thereof, and the granting of the right of way for said railroad to the said Utah and Pacific Railroad Company.

Dated, Salt Lake City, March 30, 1899.

OREGON SHORT LINE & UTAH NORTHERN RAILROAD COMPANY.
By P. L. WILLIAMS, *Its Attorney.*

Filed March 31/99.

Department of the Interior. Received Oct. 27, 1899. L. & R. R. Div. 4441.

7992 The Utah, Nevada & California Railroad Company was a corporation of the State of Nevada, organized on the 2nd day of February, 1899. It was, in fact, a subsidiary company of the Oregon Short Line Railroad Company. Its Articles of Association were duly certified by the Secretary of State of the State of Nevada, and a list of its officers filed in said office and in Lincoln County, and said articles with all of the proof required by the regulations of the Department of the Interior of the United States were filed in the proper land offices of the United States for the purpose of acquiring a right of way for its railroad in pursuance to the terms of the Act of March 3rd, 1875.

These articles authorized said company to construct, own, maintain and operate a railroad from a point described in said articles, across the State of Nevada for a distance of about 215 miles, with a branch

line extending from Caliente to Pioche, making a total distance of about 245 miles. These Articles of Incorporation are herewith submitted and marked Defendants' Exhibit 240 and offered in evidence.

Defendants' Exhibit 240 is as follows:

DEFENDANTS' EXHIBIT 240.

(Kelly.)

ARTICLES OF ASSOCIATION OF THE UTAH, NEVADA AND CALIFORNIA RAILROAD COMPANY.

We, the undersigned, subscribers to the stock of a contemplated railroad, do hereby associate ourselves together as a corporation
7993 under the laws of the State of Nevada for the purpose of constructing, owning, maintaining and operating a railroad within the County of Lincoln, in the State of Nevada, and for that purpose do hereby adopt the following:

Articles of association.

ARTICLE I.

The name of this corporation shall be The Utah, Nevada and California Railroad Company.

ARTICLE II.

This corporation shall continue in existence fifty years from the thirtieth day of January, A. D., 1899.

ARTICLE III.

The amount of capital stock of this corporation shall be five million dollars ($5,000,000) which shall be divided into fifty thousand (50,000) shares of one hundred dollars ($100) each, which amount is the actual contemplated cost of constructing the proposed railroad together with the cost of right of way motive power and every other appurtenance and thing for the completion and running of said road as nearly as can be estimated by competent engineers.

ARTICLE IV.

There shall be five directors to manage the affairs of this corporation. The names and residences of the first directors are as follows, to wit:

Names.	Residences.
C. M. Dull,	Salt Lake City, Utah.
Chas. D. Savery,	Salt Lake City, Utah.
Albert E. Kimball,	Salt Lake City, Utah.
7994 A. C. Cleveland,	Cleveland, Nevada.
T. J. Osborne,	Pioche, Nevada.

ARTICLE V.

This corporation is organized to construct, own, maintain and operate a railroad from a point on the eastern boundary line of the State of Nevada within Lincoln County, the said point being two thousand (2,000) feet more or less, north from State line mile post No. 251, upon the boundary line between the States of Nevada and Utah and extending thence in a southwesterly direction to the southern boundary line of said Lincoln County, to a point upon the boundary line between the States of Nevada and California, at or near the southwest corner of Township 26, South of Range 59 East of Mount Diablo Meridian, a distance as estimated of two hundred and fifteen (215) miles; and also a branch line of railroad extending from a point upon the line above described, designated and known as Clover Valley Junction and extending thence in a northerly direction to the town of Pioche in said Lincoln County, an estimated distance of thirty (30) miles. The total length of said main line and branch as nearly as can be estimated is two hundred and forty-five (245) miles, and the whole thereof is included within Lincoln County in said State of Nevada.

We, the undersigned, do hereby subscribe our names to the foregoing articles of association and agree to take the number of shares in Capital Stock of said corporation set opposite our names respectively:—

Name.	Residence.	Number of shares.
Trenmor Coffin	Carson City, Nev	One (1)
7995 A. C. Cleveland	Cleveland, Nev	One (1)
Albert E. Kimball	Salt Lake, Ut	2441
C. M. Dull by A. E. Kimball, proxy	Salt Lake, Ut	One (1)
Chas. D. Savery, by A. E. Kimball, proxy	Salt Lake, Ut	One (1)
J. Clippenger, by A. E. Kimball, proxy	Salt Lake, Ut	One (1)
W. S. Anderson, by A. E. Kimball, proxy	Salt Lake, Ut	One (1)
Robt. N. Young, by A. E. Kimball, proxy	Salt Lake, Ut	One (1)
F. N. Knickerbocher, by A. E. Kimball, proxy	Salt Lake, Ut	One (1)
T. J. Osborne	Pioche, Nev	One (1)

STATE OF NEVADA,
County of Ormsby, ss:

A. C. Cleveland, A. E. Kimball and T. J. Osborne, three of the directors of the above named Utah, Nevada and California Railroad Company being duly sworn on oath, depose and say,

That they are directors named in the foregoing Articles of Incorporation of said railway company, that the said amount of stock has been subscribed; that ten per cent in cash thereon has actually and in good faith been paid to Albert E. Kimball, Treasurer of said company and that the said subscribers to said Articles are all known

by one or the other of these affiants to be subscribers thereto and to be the persons so represented.

A. C. CLEVELAND,
A. E. KIMBALL,
T. J. OSBORNE.

Subscribed and sworn to before me this 2nd day of February, 1899.

7996 In witness whereof, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

WILLIS G. CLARK, *Notary Public.*

(Notarial Seal.) In and for Ormsby County, Nevada.

Endorsed:
Articles of Association of the Utah, Nevada and California Railroad Company.
Filed, Feby. 2nd, 1899.

EUGENE HOWELL,
Secretary of State.

STATE OF NEVADA,
Department of State, ss.

I, Eugene Howell, the duly elected, qualified and acting Secretary of State of the State of Nevada, do hereby certify that the foregoing is a true, full and correct copy of the original Articles of Association of the Utah, Nevada and California Railroad Company, filed in office Secretary of State, upon the 2d day of February, 1899, now on file of record in this office.

In witness whereof, I have hereunto set my hand and affixed the Great Seal of State, at my office, in Carson City, Nevada, this Third day of February, A. D., 1899.

[SEAL.]

EUGENE HOWELL,
Secretary of State.

10 cent Rev. Stamp.

7997 The Board of Directors of the Utah, Nevada & California Railroad Company, on February 23rd, 1899, had submitted to it a map of the survey of railway line from a point on the east boundary line of the State of Nevada, to a point in section 8, township 4 south, range 67 east, Mt. Diablo Meridian, in said State of Nevada, a total distance of 40 miles (being the survey of the line from Uvada to Caliente), and the said Board thereupon passed a resolution adopting the line of route for its railroad as surveyed and represented upon the maps returned and sworn to by T. M. Baird, a civil engineer, and extending from a point on the east boundary line of the State of Nevada, as described upon said map, to a point in section 8, township 4 south, range 67 east, Mt. Diablo Meridian, in said state, a distance of forty miles, and the same was then adopted as the definite location of the road between said points. The maps so filed

were returned by the Department to the Local Land Office for correction September 16, 1899 and on December 25, 1899, were forwarded by Register and Receiver of Local Land Office to Utah, Nevada & California Company. March 1, 1901, the corrections were made and the maps refiled in the proper land office in the State of Nevada.

By reason of apparent conflict between the said maps so corrected and the original maps of the Oregon Short Line & Utah Northern Railway Company, with certain maps on file in said land office by the Utah & California Company, a contest arose in said office which was set for hearing on the 11th day of March, 1901. At a meeting of the Board of Directors of the Utah, Nevada & California Railroad Company held on April 29th, 1901, the said Board had sub-
7998 mitted to it maps and profiles showing the line of its road beginning at the said point in section 8, township 4 south, range 67 east Mt. Diablo Meridian (namely Caliente), for the length of 20 miles extending in the direction of Pioche, and shown by Map No. 12, and on the same day Map No. 13 was submitted, showing the continuance of said line from the end thereof for a distance of 10.514 miles toward Pioche, which maps and profiles were approved and the line of route indicated thereon adopted as the line of route of the Railroad of said company.

On the same day, Map No. 3, covering a distance of 6.52 miles through the surveyed lands of the United States, southwesterly from Caliente, and also showing a further distance in the same direction of 13.48 miles across the unsurveyed lands in Nevada, being a total of 20 miles upon said map, and the line of road thereupon delineated was, by the Board, adopted as the line of route of the railroad of said railroad company, and on the same day there was submitted to the Board Maps Nos. 4, 5, 6, 7, 8, 9, 10 and 11, each in sections of 20 miles, showing the line of location of the railroad southwesterly across the State of Nevada, separately showing where the same crossed surveyed and unsurveyed lands.

And upon considering the same, it was resolved by the Board that the lines of route indicated upon said maps Nos. 4, 5, 6, 7, 8, 9, 10 and 11 were adopted as the line of railroad of said company.

All of these maps were immediately filed in the proper land offices of the United States, and forwarded in due course to the Department of the Interior.

On the 22nd day of April, 1901, the Oregon Short Line
7999 & Utah Northern Railway Company made an assignment of all its right, title and interest in and to the right of way for a railroad shown by its map of definite location on file in the United States land offices, extending from a point on the boundary line between the States of Utah and Nevada at Uvada, and extending thence in a southwesterly direction to a point known as Clover Valley Junction and beyond, with a branch line extending from said Clover Valley Junction (now known as Caliente) to the Town of Pioche, in Lincoln County, Nevada, and also assigned all of its right, title and interest in and to a grade for a railroad line, including tunnels,

cuts and embankments from said Uvada between the States of Utah and Nevada to Clover Valley Junction, now known as Caliente, and thence to Pioche, which said assignment was made to the Utah, Nevada & California Railroad Company.

The Oregon Short Line Railroad Company, as the purchaser under foreclosure of the physical properties of the Oregon Short Line & Utah Northern Railway Company, assigned all of its right, title and interest to the Utah, Nevada & California Railroad Company, to the railroad properties covered by the previous assignment, copies of these two documents being filed first in the office of the Secretary of the Interior.

The Utah & California Railroad Company above referred to, was a corporation organized in the State of Utah for the purpose of building a railroad in said State. It had, amongst other things, power to build from Milford to the Nevada State line, but it had no power by its original articles of incorporation, to build any
8000 railroad outside of the State of Utah. It did, however, file maps and profiles and adopt a line of railroad for its own purposes, coincident with the line of railroad and maps and profiles formerly filed by the Oregon Short Line & Utah Northern Railway Company, extending from Milford to Clover Valley Junction (Caliente), and thence to Pioche. It took no corporate steps to amend its articles of association giving it power to do any act in the State of Nevada until the month of December, 1900, or January, 1901, when it made an amendment of its charter. It did not file its charter, or in any manner whatever comply with, or seek to comply with, the laws of the State of Nevada at any time earlier than the 9th day of April, 1901, and its maps and profiles and filings were in this condition at the time of the hearing in the Land Office at Carson City on March 11th, 1901.

The decision of the local Land Office was made soon after that date, and was immediately appealed from to the Secretary of the Interior, and the decisions of the local Land Office and of the Secretary of the Interior, are all stated in this record at pages 3267 and following, being copied into the statement of facts in the case of Utah, Nevada & California Railroad Company versus Utah & California Railway Company, and others. The contest in the Land Office was as to which set of maps should be approved, and briefly stated, the Land Office refused to give force to the old maps of the Oregon Short Line & Utah Northern Railway Company, rejected the maps of the Utah, Nevada & California Railroad Company, and approved the maps of the Utah & California Railroad Company. The Secretary of the Interior upon hearing, reversed this decision in whole or in part.

8001 It may be repetition of what has been said already, but at the time of this controversy in the Land Office, there was an operated railroad between Milford and Uvada, and it was operated by the Utah & Pacific Railroad Company, and it was in reference to this operated railroad that in April, 1901, the Oregon Short Line

Railroad Company exercised its option of purchase. It was the graded work south of this operated railroad, namely from Uvada south to Caliente that was the subject matter of the controversy in the Land Office, and in the Interior Department.

The persons interested in the organization of what was afterwards the San Pedro, Los Angeles & Salt Lake Railroad Company in December, 1900, or early in 1901, made some sort of an arrangement with the Utah & California Railroad Company by which they controlled the same, and in its name sought to obtain rights which should afterwards be conveyed to the San Pedro, Los Angeles & Salt Lake Railroad Company.

On April 19th, 1901, the Utah and California Railway Company assigned, transferred, conveyed and quit-claimed to the San Pedro, Los Angeles & Salt Lake Railroad Company all of its right, title and interest in and to the property it then had or might thereafter acquire by reason of the approval of its map by the Honorable Secretary of the Interior in and to the right of way and railroad grade in the State of Nevada, extending from a point on the state line between Utah and Nevada near Uvada station on the Utah and Pacific Railroad, in a southwesterly direction a distance of about forty miles, and thence in a northwesterly direction a distance of about thirty-five miles, to a point near Pioche, which right of
8002 way was particularly described and defined by the maps and surveys thereof filed in the United States Land Office at Carson City, Nevada, on April 27th, 1897. This action was taken in pursuance to a vote of the Board of Directors of the Utah and California Railway Company, at a meeting of said Board held on April 19th, 1901.

The Los Angeles Terminal Railway Company was a corporation existing under the laws of California, and owned a line of railroad extending from San Pedro to Los Angeles, with branch lines extending to Pasadena and Verdugo Canyon, in all about 45 miles of railroad. This property, during the year 1900, was acquired by Mr. W. A. Clark, David Keith, Thomas Kearns, and R. C. Kerens and his associates. During that year, or early in 1901, these gentlemen determined to construct or acquire a railroad connecting with the Los Angeles Terminal Railway, extending eastwardly through California, Nevada and Utah to Salt Lake City, Utah.

On March 20th, 1901, the San Pedro, Los Angeles & Salt Lake Railroad Company was organized as a corporation of the State of Utah, and its articles of incorporation were filed in the office of the County Clerk of Salt Lake County, Utah, on March 21st, and in the office of the Secretary of State of the State of Utah on March 28th, 1901. The same articles were filed in the office of the Recorder of Deeds of Lincoln County, Nevada, on the 8th day of April, 1901, and the same together with certificates and the due proofs required by the regulations of the Department of the Interior, were filed in the office of the Secretary of the Interior on May 2nd, 1901, except that a certified copy of the laws of the State of Nevada with

8003 respect to the operation of railroads in said state, was not filed in said Department of the Interior until May 27th, 1901, and under date of June 4th, 1901, the Commissioner of the General Land Office advised that the papers relating to the incorporation of the San Pedro, Los Angeles & Salt Lake Railroad Company had been found to be prepared in due form and had on that day been submitted to the Secretary of the Interior to be accepted for filing under the provisions of the Act of March 3, 1875.

The organization of the San Pedro, Los Angeles & Salt Lake Railroad Company, by the election of its officers, was completed on the 21st day of March, 1901, at Salt Lake City, Utah. On May 22nd, 1901, the Board of Directors of said company, at a meeting held on that day, amongst other things, took the following action:

"The presiding Vice-President then announced that the next business in order was the consideration of certain maps of surveys made pursuant to a resolution of the Board of Directors adopted at its meeting on March 21, 1901, by First Assistant Engineer McCartney. First Assistant Engineer McCartney thereupon exhibited to the Board seven maps in duplicate, numbered one to seven inclusive, showing the surveyed and located line for a railroad as follows:

Map No. 1—From the Utah Nevada line southwesterly to Clover Junction, 40 miles, located March 26, to April 2, 1901.

Map No. 2—From Clover Junction northwesterly to vicinity of Panaca, 20 miles; located April 2–7, 1901.

8004 Map No. 3—From end of Map No. 2 northwesterly to head of Condor Canon, 1.913 miles; located April 7, 1901.

Map No. 4—From Clover Junction southwesterly down Meadow Valley, 20 miles; located April 8–16, 1901.

Map No. 5—From end of Map No. 4 down Meadow Valley, 20 miles, located April 18–25, 1901.

Map No. 6—From a point one mile southwest of Clover Junction and northwesterly to Pioche, 32 miles; located April 27 to May 6, 1901.

Map No. 7—From end of Map No. 5 down Meadow Valley, 20 miles, located May 10 to 16, 1901.

On motion of Mr. McCornick, seconded by Mr. Kearns, all of said maps were adopted and approved as showing the survey and location of a part of the line of railroad which it is proposed and provided for in the articles of incorporation shall be constructed through Lincoln County, Nevada, and said First Assistant Engineer was authorized and directed to cause said maps to be filed without delay in the United States Land Office at Carson City, Nevada, to be forwarded to the Honorable Secretary of the Interior at Washington, D. C., for approval by said Secretary."

That at the meeting of the Board of Directors, held on the 21st day of March, 1901, the following action was taken:—

"Resolved, that the Chief Engineer of this corporation is hereby authorized, empowered and directed to enter upon and prosecute and complete with all practicable and convenient dispatch the survey and

location of the main line of railroad proposed to be constructed
8005 by this corporation from the City of Salt Lake, in the County of Salt Lake, and State of Utah, to the City of Los Angeles, County of Los Angeles, and State of California, as the same is provided for in the articles of incorporation of this Company; and,

Resolved, that H. M. McCartney, first Assistant Engineer of this corporation, is hereby employed, appointed, authorized and instructed to at once enter upon, prosecute and complete the survey and location of that part of said main line of railroad, which it is proposed and provided for in the articles of incorporation shall be constructed through Lincoln County, Nevada."

The lines of railroad referred to in maps Nos. 1, 2, 3 and 6, embraced what is heretofore mentioned in the maps of the Oregon Short Line & Utah Northern Railway Company, and the Utah, Nevada & California Railroad Company, as the line from Milford to Pioche. The other maps relate to the territory extending southwesterly from Caliente.

TAX TITLES.

Certain taxes were levied in Lincoln County, Nevada, for the year 1893, against the Oregon Short Line & Utah Northern Railway Company, as to its possessory claim for a right of way and partially completed roadbed thereon situated, from Uvada to Pioche, and in course of time, claiming under authority of the revenue laws of the State of Nevada, said right of way was exposed for sale under a judgment and decree of the District Court of Lincoln County, Nevada, rendered in the year 1894, for delinquent taxes claimed to be due upon the assessment of 1893, and sold to the County of Lincoln, but no certificate of sale was ever written out or made of said sale until about the
8006 month of February, 1901. That in February, 1901, a certain certificate of sale was prepared, signed by E. D. Turner, who, at the date of said sale, was the Sheriff of Lincoln County, Nevada, but who was not at the making and execution of said certificate the Sheriff of Lincoln County, Nevada, that office at that time being held by one Johnson; that on February 23rd, 1901, a deed purporting to be issued in said proceeding by E. D. Turner, as Sheriff of Lincoln County, Nevada, and purporting to convey said property to one W. J. Dooley, Treasurer of Lincoln County, Nevada, which deed bore date the 1st day of December, 1894, and was signed by E. D. Turner, as Sheriff of Lincoln County, Nevada, and the same was acknowledged by him on the 23rd day of February, 1901, under a Notary's certificate that he was the same person who was Sheriff of said County at the date of said deed; said deed, when so executed, was placed upon record in said Lincoln County, Nevada, and it embraced "the possessory clam to surveyed right of way for railroad of sixty-five miles of railroad more or less, running from the state line on the east, southwest down Clover Valley Wash, thence north up Meadow Valley Wash to within three miles of Pioche, with sixty miles more or less of prepared road bed, consisting of cuts, fills, tunnels, etc., and known as

the Milford and Pioche line of the Oregon Short Line and Utah Northern Railway, situated in Lincoln County, Nevada."

Thereafter, by an arrangement between the San Pedro, Los Angeles & Salt Lake Railroad Company and the County of Lincoln, the said County of Lincoln granted and quit-claimed to said
8007 San Pedro, Los Angeles & Salt Lake Railroad Company, all of the right, title and interest of said County in and to "The railroad and right of way extending from a point about three miles north of Pioche to Clover Valley Junction, built and formerly owned by the Oregon Short Line and Utah Northern Railroad Company, and sold for taxes and purchased and now owned by said County of Lincoln."

On March 4th, 1901, the Utah & California Railway Company made an arrangement with the County of Lincoln, Nevada, whereupon the following resolution was passed by the Board of County Commissioners of said County:

"Resolved, that if the said Utah & California Railway Company, or its assigns, shall within six months from this date, build and place in operation a broad gauge railroad from Uvada, Utah, to the Culverwell Ranch in Lincoln County, Nevada, and pay the County of Lincoln the sum of $5,083.00, then and in that event the County of Lincoln will convey and confirm unto said Utah & California Railway Company, or its assigns, all of the right, title and interest of said Lincoln County, in, to and concerning said Oregon Short Line and Utah Northern Railway Company's grade within the County of Lincoln."

Thereafter, on May 6th, 1901, an agreement was made between Lincoln County, Nevada, and the San Pedro, Los Angeles & Salt Lake Railroad Company, as follows:

"It is mutually agreed between the undersigned that the Check No. 183, for the sum of three thousand and eighty-three and 02/100 dollars ($3,083.02) drawn by the San Pedro, Los Angeles & Salt Lake Railroad Company, to James A. Nesbitt, Treasurer of Lincoln County, and hereto attached, shall be held by said Treasurer until the determination of the suit pending in the District Court of
8008 the Fourth Judicial District of Nevada, wherein the Utah, Nevada and California Railway Company is plaintiff; and John Simpson, et al, Commissioners, are defendants, and in the event of the County's title to the old O. S. L. & U. N. Ry. Co. grade and right of way in Lincoln County being adjudged valid, but that the sale thereof must be made at public auction, the said check and the amount mentioned therein shall be taken as a part of the sum of $5,083.02, to be bid by said S. P. L. A. & S. L. R. R. Co. for said right of way and grade, at the time the same shall be advertised for sale by said County. The said $2,000.00 already paid to said County for a portion of said right of way, shall constitute the balance of the amount to be bid by said S. P. L. A. & S. L. R. R. Co., as aforesaid, provided that said last named company become the purchasers of said property, and in case the said title of said County be held invalid, or

that the S. P. L. A. & S. L. R. R. Co. does not become purchaser of said grade, the said check shall be returned to said S. P. L. A. & S. L. R. R. Co.

It is further agreed that in the event said title is held to be valid, and that the same may be disposed of at private sale, then the said check shall be taken as the balance of the purchase price for the right of way from Clover Valley Junction to Uvada, and a conveyance thereof shall be made to said S. P. L. A. & S. L. R. R. Co., provided it is determined by the Board of County Commissioners to sell said property at private sale."

On or about the 27th day of April, 1901, the Utah, Nevada and California Railroad Company brought its Bill in the Circuit Court of the United States for the District of Nevada against the
8009 Utah and California Railway Company, the San Pedro, Los Angeles & Salt Lake Railroad Company, and others, as defendants, in which said Utah, Nevada & California Railroad Company set up its title to the railroad, right of way, roadbed, grade and improvements on said right of way as shown upon said maps and profiles approved by the Department of the Interior of the United States in favor of the Oregon Short Line and Utah Northern Railway Company, as to the line of railroad extending from Uvada in a southwesterly direction across the State of Nevada to the southwestern boundary thereof, and also as to the branch line of railroad right of way extending from a point on said line above described, known as Clover Valley Junction, and about 40 miles southwest from Uvada, and extending thence in a northerly direction to the town of Pioche a distance of about thirty miles; it alleged the organization of the Nevada Pacific Railway Company and the Oregon Short Line & Utah Northern Railway Company, the resolve of the last named company to construct a railroad upon the line above described; the making, filing and approval of the maps in respect of the proposed line of railroad; the construction of a partially completed roadbed upon said right of way from Uvada to Caliente and towards Pioche; the filing of all the maps covering this entire line of right of way; the suspension of work thereon by reason of financial embarassment of the said Oregon Short Line and Utah Northern Railway Company, the receivership of said company as hereinbefore referred to; the foreclosure of the several mortgages; the sale of the property to the Oregon Short Line Railroad Company, and the possession thereof by said last named company about March 1897. It further alleged
the organization of the Utah, Nevada and California Rail-
8010 road Company as an auxiliary company to the Oregon Short Line Railroad Company; the making and filing by said company of its various maps in the United States Land Office; the organization of the Utah & California Railway Company, and the nature of its corporate powers, rights and privileges; the organization of the San Pedro, Los Angeles & Salt Lake Railroad Company, its entry upon and possession of said right of way, and the interference with said possession by the Utah & California Railway Company

and the San Pedro, Los Angeles & Salt Lake Railroad Company; that it claimed its right to said right of way, roadbed and grade by virtue of assignments of the rights of the Oregon Short Line Railroad Company and of the Oregon Short Line and Utah Northern Railway Company, as well as by the maps, profiles, and proceedings which it had taken in the Department of the Interior to secure an approval of its said maps; the interference with said property and the attempted seizure thereof by the Utah and California Railway Company and the San Pedro, Los Angeles & Salt Lake Railroad Company. It prayed for appropriate relief, and for an injunction restraining the said defendants, their agents and servants from in any way hindering, delaying or impeding the complainant in the construction of its railroad upon said right of way, and for the quieting of title thereto in said complainant, and restraining the defendants from making or asserting any right, title or claim in or to said right of way, or any part thereof, and for other appropriate relief in that behalf. To this bill the several defendants filed their answers.

Later, and on or about the 25th day of May, 1901, the Utah,
8911 Nevada and California Railroad Company filed its amended and supplemental bill, and alleged that since the filing of its original bill it had filed maps and profiles of its branch line of railroad extending from Clover Valley Junction to or near the town of Pioche in the State of Nevada, and that the same had been submitted to the Department of the Interior; that it had caused surveys to be made of its said line of railroad, and caused maps and profiles to be prepared showing the line of right of way for its railroad from Clover Valley Junction southwesterly across the State of Nevada and through the County of Lincoln, Nevada, to the Western boundary thereof, and that it had caused to be filed maps and profiles in the Department of the Interior for approval; that it had duly adopted the line of right of way described and embraced in said maps and profiles, and that it owned the same; that it was prosecuting the work of constructing said line of railroad, and then had in operation 23 miles of railroad upon its main line from Uvada towards Clover Valley Junction, and had material for a large amount of further construction; that the defendants were interfering with its possession of said right of way southwesterly from Caliente; that it had notified the said defendants and their agents to desist from certain specified encroachments upon said right of way, and alleged the entry by said defendants upon various parts of said right of way for the purpose of dispossessing the complainant thereof.

It also set up and alleged the taking of a certain deed by the San Pedro, Los Angeles & Salt Lake Railroad Company from one
8912 James A. Nesbitt, as above recited, the existence of a certain agreement between the San Pedro, Los Angeles & Salt Lake Railroad Company and the County of Lincoln in respect to certain tax title rights and interests; alleged the invalidity of said deed and the proceedings on the part of the County Commissioners of Lincoln

County, and that said deed and proceeding were void for the reasons in said bill stated, it described that certain judgment entered in the District Court of Lincoln County against the Oregon Short Line & Utah Northern Railway Company in respect to the taxes levied in 1893, and alleged the invalidity of said judgment, and that the same was void for the reasons therein stated. It prayed for an injunction restraining the defendants and each of them from any interference with said right of way and property described in said amended and supplemental bill, and that the said tax proceedings, tax deed and agreement with Lincoln County be declared void and of no effect, and for other and further relief.

The San Pedro, Los Angeles & Salt Lake Railroad Company filed its answer and cross-bill to said original and amended and supplemental bill, in which it set up the facts in relation to its claim to the right, title and possession of said properties. The other defendants also filed answers to said amended and supplemental bill, replications were made, and issues joined, and the same resulted in a hearing in said Circuit Court of the United States for the District of Nevada, on or about the 20th day of June, 1901, before the Honorable Thomas P. Hawley, Judge of said court, and in an order and decree made by said Judge on the 22nd day of July, 1901, copy of which may be found on page 3232 of record (see also page 3230).

8013 That on or about the day of , 1901, the Utah, Nevada and California Railroad Company brought its certain suit in the Fourth Judicial District Court of the State of Nevada against John Simpson, E. D. Turner and Henry Mathews, County Commissioners of Lincoln County, Nevada, James W. Nesbitt, Treasurer of Lincoln County, and the State of Nevada as defendants, in which it alleged the facts relating to the assessment of taxes by Lincoln County, on the right of way of the Oregon Short Line & Utah Northern Railway Company for the year 1893; the commencement of suit by Lincoln County to recover the amount of said taxes under the revenue laws of the State of Nevada; the rendition of a pretended judgment in said proceeding, the issuance of an execution and an order of sale, the sale of the property, and a deed of conveyance thereof under said pretended proceedings, to one James W. Nesbitt, the Treasurer of Lincoln County, and alleged that all of said proceedings and judgment were void and of no effect, and prayed for a cancellation of said deed, judgment, execution and sale in pretended pursuance thereof.

On June 9th, 1903, upon a hearing of said cause, the Court found that the facts set forth in said petition were true; that said judgment was entered without authority of law and not in accordance with the provisions of the laws of Nevada, and it decreed that the summons, publication thereof, and judgment were contrary to law, and that no jurisdiction of the Oregon Short Line and Utah Northern Railway Company or its property was acquired thereby, and that the same and each of them were null and void; that the execution issued

in said cause, and the pretended sale thereunder, and the
8014 certificate of the Sheriff based thereon, and the deed made in pursuance thereof, were illegal, null and void, and the Court held and adjudged that the plaintiff was the legal owner and holder, and in possession of all of said property described in said complaint, consisting of said railroad, right of way, roadbed and other structures and appurtenances thereto belonging, and its title thereto was thereby quieted and confirmed.

The allegations in said cause in respect to said tax proceedings and sale were substantially the same as the allegations set forth in complainant's amended and supplemental bill filed in the Circuit Court of the United States.

The pleadings in said case are all in evidence, and appear on pages 3238 and following, of the printed record.

Various suits were instituted by the respective companies and their officers against each other in the District Court of Lincoln County for condemnation of right of way, for forcible entry and detention and other suits of like character.

The Circuit Court of the United States for the District of Nevada rendered its decree and judgment in the interlocutory proceedings of July 22nd, 1901, on the restraining order originally issued in said cause on April 27th, 1901, restraining the defendants from interfering with the so-called Uvada-Clover Valley Junction-Pioche grade, until the further order of the court. The motion for an additional injunction under the amended and supplemental bill filed on June 3rd, 1901, was heard at the same time, and in that cause the court held that the complainant had made out a prima facie case to entitle it to an injunction pendente lite as to that part of the
8015 right of way covered by the roadbed from Uvada to Clover Valley Junction, and from thence to Pioche, but that the complainant had not made out such a case as to entitle it to the additional injunction prayed for in the supplemental bill. It expressly declined to consider the questions arising under the supplemental bill as to the right of way, maps and surveys thereof, because these questions were still pending in the Land Department of the United States, having jurisdiction of the matter, and because as to the tax title the complainant had already brought suit in the State Court to determine these questions, where it was pending at the time of the filing of the supplemental bill. The opinion of the court is found in 110 Federal Reporter, at page 879.

In the month of September, 1901, certain motions, demurrers and other pleadings were being considered by the Judge of the Fourth Judicial District Court of the State of Nevada, upon a hearing of the matters then before him. At that time, certain negotiations were instituted between counsel for the respective parties with respect to the disposition of all litigation then pending between the companies, and for a settlement of the right to occupy the disputed territory through the Meadow Valley Wash, which resulted in a memorandum

between them, to be submitted to their respective corporations for consideration; said memorandum being as follows:

"Points for consideration in proposed settlement of pending controversies between the Utah, Nevada & California Railroad Company and the San Pedro, Los Angeles & Salt Lake Railroad Company, hereinafter respectively called the Nevada Company and the San Pedro Company.

8016

I.

LINE FROM CAJON TO CALIENTE.

Location and title of Nevada Company to stand confirmed. San Pedro Company to withdraw all contests in courts and land department, and, if requested, to convey to the Nevada Company any interest of the San Pedro Company therein derived from the Utah & California Railway Company, Lincoln County, Nevada, or from private parties.

II.

LINE FROM CALIENTE TOWARDS PIOCHE, KNOWN AS PIOCHE BRANCH.

Location and title of Nevada Company to stand approved. San Pedro Company to withdraw all contests in all courts and land department, and to convey to the Nevada Company all rights of way secured by it from private parties, upon being paid the cost thereof, and to convey to the Nevada Company all interest derived by it through the Utah & California Company and Lincoln County, Nevada, without compensation.

The San Pedro Company, along said line in all places where canyons or defiles are too narrow for two complete 200 foot parallel rights of way, to have room upon the Nevada Company's right of way to construct and maintain its road, to this end dividing the practicable ground in narrow places between the companies substantially equal. San Pedro Company to compensate the Nevada Company for so much, if any, of the constructed grade of the Nevada Company as it may use along said line, and to be paid the cost of right of way along said line which it has derived by purchase from owners

8017

of land along the same, and which the Nevada Company may use, the San Pedro Company, however, not to be required to pay anything for land acquired through the said canyons under the grant from the United States.

III.

LINE FROM CALIENTE SOUTHWESTERLY TO NEVADA-CALIFORNIA STATE LINE.

(a) For about four miles southerly from Caliente, to a point where the San Pedro Company's relocated line approaches the map

line of the Nevada Company, the Nevada Company's mapped line to stand approved, it paying the San Pedro Company the value of any grading or work done upon said line by it prior to this time, and the cost of any right of way which it may have secured from private parties over said distance and which work of right of way may be used by the Nevada Company; the San Pedro Company's relocated line for said distance to be approved.

(b) From the point named in paragraph "a" hereof, southerly through Meadow Valley Wash and through California Wash, and to a point about 115 miles southerly from Calientes, and through places too narrow for two complete rights of way 200 feet in width, to be secured without unreasonable expense, each company to take enough ground to construct and make its line, to this end dividing the practicable ground through said narrow places between the companies upon substantially equal basis, each company wherever practicable to secure its right of way for the full width and occupy the same, so that said rights of way will not, except in said narrow places, conflict with each other and to be so located as hereafter provided as to prevent the crossing of one road by the other.

8018 (c) Beyond the southerly end of the California Wash and near 115 miles from Calientes, the mapped line of the Nevada Company to stand approved.

(d) Upon the line described in paragraph "b" of this clause, the companies to at once relocate their respective adopted lines by joint action of their respective engineers, so as to secure improved lines in compliance with the general provisions of paragraph "b," and for said line described in paragraph "b" in case either company uses any constructed grade work heretofore done by the other it shall make compensation therefor upon the basis of value of the work taken and used. If either company shall use any right of way heretofore purchased by the other company, compensation shall be made upon the basis of cost thereof in proportion to the amount used.

IV.

All suits in courts and contests in the United States Land Department to be disposed of or dismissed, in order to carry out the foregoing.

V.

The San Pedro Company is to withdraw its intervention in the State Court Tax Title case and to aid the Nevada Company in securing the best possible adjustment of said matter with said Lincoln County and the State.

VI.

Hearing of the action between the parties hereto in the Circuit Court of the United States for the District of Nevada, set for

8019 September 19th, to be adjourned for thirty days, subject to the convenience of the presiding Judge of said Court, pending which continuance neither activity nor inactivity in construction work, or work done or omitted to be done along said premises described in paragraph "b" of Clause III hereof, shall be considered or given in evidence to the prejudice or advantage of either party hereto in any suit or proceeding now pending or hereafter to be brought.

Testimony may be taken at Salt Lake City, Utah, before J. Tracey Smith, an Examiner appointed by said Circuit Court, and a copy thereof filed with the Register and Receiver of the Land Office at Carson City, with a stipulation providing that the same shall be received and accepted with the same force and effect as if given orally before said officers by the witnesses who gave said testimony before the said Examiner, and except as to the taking and filing of said testimony, the proceedings before said Register and Receiver set for the 16th day of September, 1901, shall also stand adjourned for thirty days, such adjournment to be provided for by a stipulation to be filed with said officers. (September 13, 1901).

The foregoing memorandum was one drawn up tentatively by counsel in the absence of principals, and without authority from them, but for consideration of the principals. Soon after arrangements were made for the making of the joint surveys mentioned in said agreement, and both roads put their forces of surveyors into the field for the purpose of seeing what could be done.

Of course, both parties were fully advised that under the Law of 1875, in such a canyon as this, it would be possible 8020 for the line first obtaining the right of way to construct its road, and it would be required, on terms as prescribed by the Act of Congress, to admit other railroads to the use of the line. Neither party in this case desired to be the tenant line, on account of the many and well-known objections to such a situation, which any railroad man would at once recognize. It was the intention of Senator Clark and of his associates, to build their line through to Salt Lake City. This intention of theirs was declared openly, and they were recognized in other controversies in respect to the right of way, which, however, as to the available portion of the completed roadbed, had been decided against them by the Courts at the time this tentative agreement was made, and long before the joint surveys were made. The officers of both companies had become fully convinced that it was the intention of each of the others to build their respective roads through to their supposed destinations, but upon consideration of the nature of the country through which the road was to be built, its scarcity of population, being from the western part of Utah to the eastern part of California, practically across an uninhabitated desert, with very great difficulties of construction, and for business reasons they determined that the best interest of both roads would be subserved by making the property a common property.

After the completion of these joint surveys and their most unsatisfactory results, the parties considered the matter together, and negotiated for a number of months in respect to terms and conditions upon which an arrangement for its joint construction could be effected. The wisdom of their conclusion in respect to the
8021 impracticable nature of the Meadow Valley Wash has been more than justified by subsequent events.

From 1890 to March, 1905, the grade from Uvada to Caliente had stood practically uninjured from floods or high waters. The Short Line, built into Caliente by July or August, 1901, and that part of the line stood without injury or damage until March, 1905. After the appropriation of that railroad grade which had been the subject of so much feeling and controversy to a useful purpose was accomplished, the forces of nature began their work, and the flood waters of March, 1905, washed out much of the grade, for about twelve miles east of Caliente, and a considerable distance west thereof, doing a large amount of damage.

During the year 1905, the road was repaired and put in working order at an expense of several hundred thousand dollars.

In February and March, 1906, another flood occurred, which dwarfed the damages done by the flood of the year 1905, and the Company repaired, or sought to repair, the damages caused thereby and to improve the road by raising the grade some five feet and putting in steel bridges and first class permanent work, which was done at a very great expense, approximating a million dollars.

On January 1st, 1910, another flood came, very much greater in volume and force than any of the others, and while at this time we are unable to say just what damage has been done from the best information we have, we are advised that the railroad is swept entirely out of the canyon, and that it is impossible to repair or
8022 reconstruct it there, and it will be necessary to abandon that line of road, and seek a new route across the country elsewhere.

The total mileage of the direct line from Salt Lake City towards California already constructed by the Oregon Short Line Railroad Company amounted to about 326 miles, and a large amount of material had been purchased and was upon the ground for construction work down the Meadow Valley Wash.

The San Pedro, Los Angeles & Salt Lake Railroad Company at the time had only its lines in California, extending from San Pedro via Los Angeles to Pasadena, with a surveyed line for which the right of way had only in part been procured for a distance of about 60 miles, and upon which 60 miles only a small portion of grade and roadbed had been completed, and not to exceed ten or fifteen miles of railroad track laid eastwardly from Los Angeles. There remained to be completed or provided for, the joint line to be constructed from Caliente to Los Angeles, a distance of about 150 miles; while if their purpose was carried out as originally intended, they would have had to construct an independent and practically as an

adjoining line of road, a distance of about 890 miles. The time required for the completion of the line as a joint proposition was estimated to be about 18 months, whereas the time required to build their entire line from Salt Lake City to Los Angeles, would be in the neighborhood of three years. The Oregon Short Line Railroad Company's projected line could have been built and in operation in eighteen months or two years before the San Pedro Company's line could have been constructed as an independent line.

8023 Question 4. When was any agreement reached by the parties in respect to the matters in question, if any was reached, after the draft was made of the tentative proposals, and what were the surrounding circumstances in relation thereto?

Answer: During the winter of 1901 and 1902, the business representatives of the respective parties held frequent conferences for the purpose of seeing what terms and arrangements could be agreed upon. After much negotiation by them, the attorneys were called in in the spring of 1902, and as representing the interests then called the Harriman interests, Judge W. D. Cornish and myself acted in drafting all papers and all contracts in behalf of said interests. Mr. Thomas E. Gibbon, General Counsel of the San Pedro Company, acted on behalf of that company, and perhaps three weeks to a month was spent in considering the terms and language of the contract. The lawyers' work was completed and terms agreed upon within a day or two of date of contract, which was finally signed by the parties, and bears date July 7th, 1902, and is one of the exhibits to the complainant's bill.

This contract of July 7th, 1902, was the preliminary contract looking to the final and complete settlement of the terms of purchase of various stocks and interests in companies held by Senator Clark and the San Pedro interests, and the price and terms upon which certain properties owned by the Short Line Company were to be conveyed to the San Pedro Company. As I remember it, there were 512 miles of tracks south of Salt Lake City conveyed and to be conveyed to the San Pedro Company, together with a large amount of material and equipment.

8024 After the contract of July, 1902, had been signed, active work in the way of making inventories and lists, and examination of property, were carried on by both sides, and the result of their final negotiation and their agreement in respect to the prices to be paid and delivery of properties from each side to the other, was consummated and arranged, and resulted in the contract of June 18th, 1903.

Question 5. You recall, of course, the traffic contract between the Southern Pacific Company and the San Pedro Company, which is an exhibit in the record in this case?

Answer. I do. I assisted in drafting that contract, and it received very careful scanning and consideration.

4805

Question 6. I call your attention to the provision of that contract in respect to rates on local traffic. You are familiar with that provision?

Answer: Yes, sir.

Question 7. Will you please explain that provision as it was understood and intended by the parties, and the circumstances surrounding the same.

Answer: The provision is that the San Pedro will "in the first instance adopt the local rates and tariffs and charges issued by said Southern Pacific Company for the handling of local traffic by said San Pedro Company, which is or may be subject to competition between the Southern Pacific Company and the San Pedro Company". The words "local traffic" written in that contract were meant by the parties who drew it, to include only, or define concretely, the local tariffs of the Southern Pacific upon that portion of its line extending from San Pedro to Los Angeles, from Los Angeles to
8025 Pasadena, and Los Angeles to Riverside and San Bernardino. These were the only local lines of the Southern Pacific, which were in touch with any part of the San Pedro Company's lines as then existing, or as proposed to be constructed. It did not refer to through or transcontinental business, as an inspection of Section 1 of that article will clearly show. And again, the Southern Pacific had no local rates to any other points upon the San Pedro Company's line of railroad within the points limited by the description last above given, and could have none without constructing additional roads. The Southern Pacific had no local rate to Salt Lake City. The only rates of the Southern Pacific Company which were ever adopted by the San Pedro Company were local rates between Los Angeles, Riverside and San Bernardino; Los Angeles and Pasadena; Los Angeles and San Pedro. When the San Pedro road was opened to through business on the first of May, 1905, the first tariff which it put in effect between Los Angeles and Salt Lake did not adopt the rates charged by the Southern Pacific for that haul. The Southern Pacific had and has a rate between Salt Lake and Los Angeles, which rate is higher than the first tariff put in by the San Pedro Company. The San Pedro Company adopted and put in force the rate between Salt Lake City and San Francisco, and that was a lower rate than any rate made from Salt Lake to Los Angeles.

Question 8. What ultimately became of the provision that you have just been discussing?

Answer: In the year 1907, the Legislature passed an Act known as the Cartwright Act, a copy of which I hand you herewith.

8026 The paper was marked "Defendants' Exhibit 241" and offered in evidence.

Defendants' Exhibit 241 is as follows:

DEFENDANTS' EXHIBIT 241.

(Kelly.)

Chapter 530, Statutes of California, 1907, page 984.

An act to define and to provide for criminal penalties and civil damages, and punishment of corporations, persons, firms, and associations, or persons connected with them, and to promote free competition in commerce and all classes of business in this state.

(Approved March 23, 1907.)

The people of the State of California, represented in senate and assembly, do enact as follows:

SECTION 1. A trust is a combination of capital, skill or acts by two or more persons, firms, partnerships, corporations or associations of persons, or, of any two or more of them for either, any or all of the following purposes:

1. To create or carry out restrictions in trade or commerce.

2. To limit or reduce the production, or increase or reduce the price of merchandise or of any commodity.

3. To prevent competition in manufacturing, making, transportation, sale or purchase of merchandise, produce or any commodities.

4. To fix at any standard or figure, whereby its price to the public or consumer shall be in any manner controlled or established,
8027 any article or commodity of merchandise, produce or commerce intended for sale, barter, use or consumption in this state.

5. To make or enter into or execute or carry out any contracts, obligations or agreements of any kind or description, by which they shall bind or have bound themselves not to sell, dispose of or transport any article or any commodity or any article of trade, use, merchandise, commerce or consumption below a common standard figure, or fixed value, or by which they shall agree in any manner to keep the prices of such article, commodity, or transportation at a fixed or graduated figure, or by which they shall in any manner establish or settle the price of any article, commodity, or transportation between them or themselves and others, so as to directly or indirectly preclude a free and unrestricted competition among themselves, or any purchasers or consumers in the sale or transportation of any such article or commodity, or by which they shall agree to pool, combine or directly or indirectly unite any interests that they may have connected with the sale or transportation of any such article or commodity, that its price might in any manner be affected. Every such trust as is defined herein is declared to be unlawful, against public policy and void.

SEC. 2. For a violation of any of the provisions of this act by any corporation or association mentioned herein, it shall be the duty of the attorney-general or the district attorney of the proper county, to

institute proper suits or quo warranto proceedings in any court of competent jurisdiction for the forfeiture of its charter rights, franchises or privileges and powers exercised by such corporation or association, and for the dissolution of the same under the
8028 general statutes of the state.

SEC. 3. Every foreign corporation, as well as every foreign association, exercising any of the powers, franchises or functions of a corporation in this state, violating any of the provisions of this act, is hereby denied the right and prohibited from doing any business in this state, and it shall be the duty of the attorney-general to enforce this provision by bringing proper proceedings by injunction or otherwise. The secretary of state shall be authorized to revoke the license of any such corporation or association heretofore authorized by him to do business in this state.

SEC. 4. Any violation of either or all of the provisions of this act shall be and is hereby declared a conspiracy against trade, and any person who may become engaged in any such conspiracy or take part therein, or aid or advise in its commission, or who shall as principal, manager, director, agent, servant, or employe, or in any other capacity, knowingly carry out any of the stipulations, purposes, prices, rates, or furnish any information to assist in carrying out such purposes, or orders thereunder or in pursuance thereof, shall be punished by a fine of not less than fifty (50) dollars nor more than five thousand ($5,000) dollars, or be imprisoned not less than six months nor more than one year, or by both such fine and imprisonment. Each day's violation of this provision shall constitute a separate offense.

SEC. 5. In any indictment, information, or complaint for any offense named in this act, it is sufficient to state the purpose or
8029 effects of the trust or combination, and that the accused is a member of, acted with or in pursuance of it, or aided or assisted in carrying out its purposes, without giving its name or description, or how, when and where it was created.

SEC. 6. In prosecutions under this act, it shall be sufficient to prove that a trust or combination, as defined herein, exists and that the defendant belonged to it, or acted for or in connection with it, without proving all the members belonged to it, or proving or producing any article of agreement, or any written instrument on which it may have been based; or that it was evidenced by any written instrument at all. The character of the trust or combination alleged may be established by proof of its general reputation, as such. In case any court of record, or in vacation any judge of said court in which is pending any civil, criminal or other action or proceeding brought or prosecuted by the attorney-general or any district attorney for the violation of any of the provisions of this act, or in any action or proceeding for the violation of the law of this state, against conspiracy or combination in restraint of trade so orders, no person so ordered shall be excused from attending, testifying or producing books, papers, schedules, contracts, agreements, or any other docu-

ment in obedience to the subpœna or under the order of such court or any commisioner or referee appointed by said court to take testimony or any notary public or other person or officer authorized by the laws of this state to take depositions when the order made by such court or judge thereof includes a witness whose deposition is being taken before such notary public or other officer on the ground or for the reason that the testimony or evidence required of
8030 him may tend to criminate him or subject him to any penalty: but no individual shall be prosecuted or subjected to any penalty for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, before any such court, person, or officer.

SEC. 7. Each and every firm, person, partnership, corporation, or association of persons, who shall in any manner violate any of the provisions of this act, shall for each and every day that such violations shall be committed or continued, after the notice given by the attorney-general or any district attorney, forfeit and pay the sum of fifty (50) dollars, which may be recovered in the name of the people of the State of California, in any county where the offense is committed, or where either of the offenders resides; and it shall be the duty of the attorney general or the district attorney of any county on the order of the attorney-general, to prosecute for the recovery of the same. When the action is prosecuted by the attorney-general against a corporation or association of persons, he may begin the action in the supreme court of the county in which defendant resides or does business.

SEC. 8. That any contract or agreement in violation of the provisions of this act, shall be absolutely void and shall not be enforceable either in law or equity.

SEC. 9. That the provisions hereof shall be held cumulative of each other and of all other laws in any way affecting them now in force in this state.

SEC. 10. It shall not be lawful for any person, partnership, association or corporation, or any agent thereof, to issue or to own trust certificates, or for any person, partnership, association or
8031 corporation, agent, officer or employe, or the directors or stockholders of any corporation, to enter into any combination, contract or agreement with any person or persons, corporation, or corporations, or with any stockholder or director thereof, the purpose and effect of which combination, contract or agreement shall be to place the management or control of such combination or combinations, or the manufactured product thereof, in the hands of any trustee or trustees with the intent to limit or fix the price or lessen the production and sale of any article of commerce, use or consumption, or to prevent, restrict or diminish the manufacture or output of any such article, and any person, partnership, association or corporation that shall enter into any such combination, contract or agreement for the purpose aforesaid shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not less than fifty dollars, nor more than five thousand dollars.

SEC. 11. In addition to the criminal and civil penalties herein provided, any person who shall be injured in his business or property by any other person or corporation or association or partnership, by reason of anything forbidden or declared to be unlawful, by this act, may sue therefor in any court having jurisdiction thereof in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and to recover twofold the damages by him sustained, and the costs of suit. Whenever it shall appear to the court before which any proceedings under this act may be pending, that the ends of justice require that other parties shall be brought before the court, the court may cause them to be made parties defendant and summoned, whether they reside in the county where such action is pending, or not.

8032 SEC. 12. The word "person" or "persons" whenever used in this act, shall be deemed to include corporations, partnerships and association existing under or authorized by the laws of this state or any other state, or any foreign country.

This act was passed March 23rd, 1907, but did not go into effect for sixty days. Immediately upon receiving a copy of this act, I concluded that the contract with the Southern Pacific Company containing the provision above mentioned was unlawful, and would subject the San Pedro Company to the payment of penalties as provided for by that act. I immediately advised the officers of the San Pedro Company, and also the officers of the Southern Pacific Company of my opinion in respect to this matter. This resulted, on the 15th day of April, 1907, in the making of an agreement between the two companies absolutely cancelling, abrogating and annuling the whole agreement so that no part thereof should be thereafter of any binding force or validity as between the party or parties, or otherwise. A copy of this Abrogation Agreement which I know to be a perfect copy, I now present. It is my best recollection that within a few days after its adoption, a copy thereof was sent to the State Railroad Commission of California and the Interstate Commerce Commission.

The agreement was marked "Defendants' Exhibit 242" and offered in evidence.

Defendants' Exhibit 242 is as follows:

8033 This agreement, Made and entered into this 15th day of April, 1907, by and between the Southern Pacific Company, a corporation duly organized and existing under the laws of the State of Kentucky, as party of the first part, and San Pedro, Los Angeles & Salt Lake Railroad Company, a corporation duly organized and existing under the laws of the State of Utah, as party of the second part,

Witnesseth, that:

Whereas, under date of the 18th day of June, 1903, the parties hereto entered into an agreement consisting of Five (5) Articles: and,

Whereas, it is mutually desired by the parties hereto that all of said agreement shall be abrogated and annulled, inasmuch as the validity of said agreement may be open to question under the recent act of the legislature of California, approved March 23rd, 1907, and being chapter 540 of the Statutes of 1907.

Now, therefore, for good considerations to each by the other paid, the receipt whereof is hereby acknowledged, it is covenanted and agreed, by and between the parties hereto, that said agreement between the parties hereto, of date June 18th, 1903, and each and every part thereof be, and the same is, hereby cancelled, abrogated and annulled, so that no part of the same shall hereafter be of any binding force or validity as between the parties hereto, or otherwise.

In testimony whereof, the said parties hereto have caused this agreement to be signed by their respective Presidents, and at-
8034 tested by their respective Secretaries, and their respective corporate seals to be hereunto affixed, the day and year first above written.

SOUTHERN PACIFIC COMPANY,

(Sgd) By WM. D. CORNISH, *Vice President*

(SEAL)

Attest:

(Sgd) ALEX. MILLAR, *Secretary.*

SAN PEDRO, LOS ANGELES & SALT LAKE RAILROAD COMPANY,

(Sgd) By WILLIAM A. CLARK *President.*

Attest:

(Sgd) W. H. COMSTOCK, *Secretary*

(SEAL)

8035 Mr. LOOMIS. I now offer in evidence, pursuant to our stipulation, the testimony given by Mr. J. M. Hannaford, a witness before the Interstate Commerce Commission, who testified at Chicago, January 8, 1907. I understand it is agreed by all parties that this testimony may be written into the record and have the same force and effect as though Mr. Hannaford were upon the stand giving the same testimony?

Mr. SEVERANCE. Yes.

J. M. HANNAFORD

testified:

By Mr. SEVERANCE.

Q. Where do you live?

A. St. Paul, Minnesota.

Q. What is your business?

A. Second Vice-president of the Northern Pacific road.

Q. What are your duties as second vice-president of the Northern Pacific Railroad?

A. They relate entirely to traffic and commercial interests.

Q. How many years have you been connected with the Northern Pacific?

A. 34 years last spring.

Q. How is that?

A. Thirty-four years last spring.

Q. In what different capacities, Mr. Hannaford, have you been connected with that road?

A. Everything in the traffic department from Chief Clerk in the freight department to second vice-president.

Q. Now, you say for 23 years you have been connected with the traffic department of the Northern Pacific?

A. Yes, sir.

8036 Q. For how many years have you been the traffic department, under your own title or another?

A. Well, more than twenty years.

Q. The Northern Pacific has its western terminus at Portland, Oregon, does it not? Or rather Portland, Seattle, Tacoma, and all along up the coast?

A. Yes, sir.

Q. And you have a line running to Portland?

A. Yes, sir.

Q. How long has that line been built?

A. Since—well, we ran to Portland in connection with the Oregon Railway & Navigation Company at first in 1883, the last part of 1883, that line was opened.

Q. Your own line?

A. No, the line in connection with the Oregon Railway & Navigation Company. I don't think I can give you the date exactly, but in the late 80s our own line was put through from Tacoma.

Q. From Tacoma down to Portland?

A. That was the first part that was built over to Tacoma that was the later, the late construction.

Q. Now, the lines of railway that reach Portland are the Northern Pacific, the Oregon Railroad & Navigation Company and the Southern Pacific?

A. Yes, sir, those are the principal lines.

Q. Mr. Hannaford, in the old days prior to the enactment of the Interstate Commerce law, which was in 1887 were you familiar with traffic meetings that were held by the transcontinental road, did you attend those meetings?

A. I attended them all I think, except during the winter of 1886 and 1887.

Q. You had been attending them for several years hadn't you?

A. Yes, sir.

8037 Q. Prior to that time did you often meet Mr. Stubbs at those meetings?

A. Yes, sir.

Q. What road was he representing?

A. The Southern Pacific.

Q. Who represented, if any one, who represented the Union Pacific at those meetings?

A. Well, various officials of that company, the late Thomas M. Kimball and I think Mr. Vinning when we first met Mr. Clark, the general manager, and Mr. Shelby, Mr. Munroe and whoever their traffic official in charge was at that time.

Q. Now, at those meetings were there discussions as to divisions and pools of trans-continental business?

A. Prior to 1887 there was.

Q. Yes, that is what I mean, prior to 1887?

A. Yes, sir.

Q. Did the Union Pacific and Southern Pacific figure as independent parties to those pools, separate parties?

A. Separate roads, yes, sir.

Q. Separate roads, and the Northern Pacific also?

A. Yes, sir.

Q. There was an arrangement with the Northern Pacific, was there not?

A. Yes, sir.

Q. And was there not also at one time an arrangement for division of the traffic, that is traffic for certain parts of the west being handled by the Northern Pacific and traffic for certain parts further south being handled by the other lines?

A. Yes, sir.

Q. How is that?

A. Yes, sir.

Q. In those negotiations the Union Pacific and the Southern Pacific acted as separate and independent roads, did they not?

A. To the best of my knowledge, yes, sir.

Q. Isn't it a fact that in those meetings there were dis-
8038 cussions between the different lines as to the percentages that they should be allowed, and were not the different lines each, including the Union Pacific and Southern Pacific, struggling to get as large a percent as possible of the common business?

A. All of us were.

Q. In those days they did not allow—they had not arrived at the point of having one man to compete for two roads, but each road had its own representative. That is true, isn't it?

A. Sometimes one man represented two roads.

Q. But not where they were competing with each other?

A. Only by proxies.

Q. Where their interests were common?

A. Where they were joint or common.

Q. That was in the case where it was a question of the division between the different roads?

A. No.

Q. That was not a case of that kind?

A. No.

Q. They each had their own representatives?

A. They each had their own representatives as a rule.

Q. Mr. Stubbs was endeavoring to get as large a percentage of the business as he could for the Southern Pacific system?

A. The indications pointed that way.

Q. What you mean by indications is that that is based on what Mr. Stubbs said, his arguments in the meeting?

A. Yes, certainly.

Q. And Mr. Munroe or the other gentlemen, whoever they may have been, who represented the Union Pacific, were likewise trying to get as large a percentage as they could for that line?

A. As large a percentage of earnings, or as small a percent-
8039 age when it was a division of expenses.

Q. Now, Mr. Hannaford, prior to 1901, you were familiar with traffic conditions so far as transcontinental and overland business was concerned?

A. Yes, sir.

Q. And as you always have been. Now prior to 1901 was there any active competition throughout the Atlantic seaboard territory and the Chicago territory, between the different transcontinental lines for the Pacific Coast business?

A. Yes, sir.

Q. All the roads were competing for that business?

A. Well, all of the roads lying west of a line drawn north and south through Chicago.

Q. What Pacific roads were competing for it, the Southern Pacific was competing for it, wasn't it?

A. Yes, sir.

Q. And the Santa Fe?

A. The Southern Pacific with some restrictions of territory.

Q. And the Santa Fe?

A. The Santa Fe.

Q. And the Union Pacific?

A. The Union Pacific.

Q. The Northern Pacific?

A. The Burlington and the Denver & Rio Grande road. The Northern Pacific at the date you mentioned, the Great Northern and the Canadian Pacific, were the principal lines. Of course they had lines that led up to them.

Q. Now has the Sunset Route, the Southern Pacific been one of your competitors at Portland on business originating in the Atlantic seaboard states?

A. Yes, sir.

Q. How is that?

A. Yes, sir.

Q. Has the route made up of the Union Pacific and Oregon Short Line and the Oregon Railroad & Navigation Company likewise?

A. Yes, sir.

8040 Q. These three roads have been competitors for the Portland business?

A. The Great Northern has been for sometime in connection with the Union Pacific via Spokane.

Q. Now, Portland is a large distributing point, is it not?

A. Yes, sir.

Q. It is the wholesale point for all that region up there?

A. Yes, in Oregon.

Q. And the traffic there is a very considerable traffic into Portland?

A. Yes, sir.

Q. And out of Portland?

A. We consider it so.

Q. Now, has your road also participated to the same extent (perhaps not to a large extent) but to some extent in the San Francisco business?

A. Quite largely in passenger business and to a limited extent in freight.

Q. How do you get into San Francisco with your freight?

A. From the—over the Southern Pacific lines from Portland and over the Pacific Coast Steamship Company's boats from Puget Sound.

Q. The O. R. & N. has always maintained a line of boats from Portland and San Francisco, has it not? By always, I mean a good many years.

A. Well, I cannot explain to you just the combination there. I have always supposed that the Pacific Coast Steamship Company—just what that organization is I don't know. The same managers handle the boats that run to Puget Sound and the boats that run to Portland, except the wild boats, the outside boats, there are more or less outside boats.

8041 Q. Now, in late years, has there not grown up quite a large traffic in cotton shipments from the Southern States of the United States to the Orient?

A. Yes, sir.

Q. What lines are competing for that?

A. What line of boats?

Q. No, what line of railroad to get to the coast?

A. So far as I know all the lines are competing for that.

Q. Now, the Southern Pacific take that cotton by the Sunset Route, do they not?

A. I think they do from Texas. I guess they do from all the territory so far as I know in the South.

Q. All the cotton states?

A. Yes, sir.

Q. Considerable of that traffic comes to you?

A. Yes, it comes up by Kansas City, the Burlington and some to St. Paul in connection with other lines. It comes from Louisiana.

Q. It also moves west over the Union Pacific, does it not, that cotton?

A. I suppose so.

Q. You say it comes up to Kansas City. That would be the Union Pacific connection?

A. I think it goes over the Union Pacific. I don't know but to Portland what it goes over the Union Pacific, Oregon Short Line and Oregon Railway & Navigation Company.

Q. And is shipped to the Orient from Portland?

A. Yes, sir.

Q. When it is taken from the South by the Sunset route it is shipped to the Orient from San Francisco or possibly also from Portland?

A. No, I think, from San Francisco. I don't think they ever bring any up to Portland via that route.

Q. In handling your traffic has it been your practice to maintain general agents or commercial agents at different large points in the east?

A. Yes, sir.

8042 Q. Chicago?

A. Chicago.

Q. Pittsburg?

A. Pittsburg, New York, Philadelphia, Boston and Buffalo.

Q. What are the functions of those agents?

A. Well, to represent the Northern Pacific Railroad and to get all of the business they can that we are able to carry and route it over our line.

Q. That is, they endeavor to get the business consigned to points of connection on your line, at St. Paul perhaps?

A. Yes, they are there to secure business for us if they can.

Q. And that includes transcontinental and Asiatic business?

A. Yes, any business.

Q. Now, do your agents meet any competition at such places and in the same line with agents of the Southern Pacific and the Union Pacific?

A. Yes, sir.

Q. And at some places you meet an agent who represents both the Southern Pacific and the Union Pacific, don't you?

A. Recently.

Q. How is that?

A. Recently we have.

Q. Now, those commercial agents that are kept at these different points throughout the country are a great assistance, are they not, to the lines they represent in securing the routing of traffic over those lines?

A. Why we feel so, yes, sir.

Q. And that is the reason you keep them there?

A. Yes, sir.

Q. Do you do a large winter tourist business over your line?

A. No, sir.

Q. You do not?

A. No, sir.

Q. That goes further south?

A. Yes, sir.

Q. You get summer tourists up your way?

8043 A. Yes, we get a large passenger business from California returning via our line in the spring. That I presume would be called winter tourists.

Q. Now, a great deal of the winter tourist business is handled by round trip tickets, isn't it?

A. Yes, sir.

Q. Is that business solicited?

A. Yes, sir.

Q. And the tourist goes out over one of the Southern roads and comes back over your line, or the Canadian Pacific or the Great Northern?

A. If we can get him to, that is the part we solicit.

Q. And the Southern line solicits the trip out?

A. I guess they solicit both ways.

Q. Well, that is an active competitive business?

A. Quite so.

Q. I think you said that you handled some tonnage into San Francisco?

A. Yes, a limited amount. Not as much as we did prior to 1887.

Q. How is that?

A. Not as much as we did prior to 1887, but we handle some there still.

Mr. MILBURN. 1887 seems to have been an eventful year?

WITNESS. It was, very.

Mr. MILBURN. I wonder what happened.

WITNESS. I spent six months in the hospital and that is why it is so firmly impressed on my mind.

Mr. MILBURN. To say nothing of the Interstate Commerce Act.

Q. Now, isn't all the traffic in the middle territory of this country naturally, that is, the Pacific Coast traffic or Asiatic traffic from the middle territory both ways, going and coming competitive between these various lines beginning with the Southern Pacific on the south, taking in the Santa Fe, the Union Pacific and the Great Northern, or practically all of it?

8044 A. Well to some degree. Some of it of course is quite strongly competitive between all the lines. The further east you get, and the further towards the south that you get, I think the Southern Pacific are competitors for the Chicago business.

Q. Where? You are?

A. We are very strongly, and all the other lines are that I know anything about, and I suppose the Southern is and I think they are in connection—either via the Illinois Central and New Orleans, or via some of their El Paso connections. I don't see why they should not be. If I was running the road I should be.

Q. The rates are so adjusted from New York and back nearly to Pittsburg or about to Pittsburg and Buffalo so that the Southern Pacific and all these northern lines are competitive for Pacific coast business in that region, are they not?

A. That would be what was known as the Trunk line territory?
Q. Yes.
A. Why, I should say so.

By Mr. MILBURN.

Q. Mr. Hannaford, you were speaking of the good old times prior to 1887 when you gentlemen used to meet and divide things up into percentages, were you not?
A. Yes, sir.
Q. In the earlier part of your testimony. And you said in those conferences somebody was there representing the Northern Pacific and other gentlemen representing the Southern Pacific, and somebody else representing the Union Pacific?
A. All lines that were interested were represented.
Q. All engaged in getting as much as possible?
A. Yes, sir.
Q. That is true?
A. Yes, sir.

8045 Q. Now the Southern Pacific man—did you say it was Mr. Stubbs, did you mention anybody?

A. I don't know that I did. He represented them quite frequently, and quite frequently there were other officials.
Q. The Southern Pacific man in that conference would represent the Sunset Route, wouldn't he, that would be one.
A. That would be one, yes, sir.
Q. And he would represent the Central Pacific route, wouldn't he?
A. Always, yes.
Q. So on the theory of my friends here he was representing competitive lines, was he not?
A. I don't know what his theory is. Those are the two lines that he represented.
Q. One line is the Central Pacific line. That was a line of about 800 miles in length, wasn't it?
A. Practically that, Ogden to San Francisco.
Q. Extending from San Francisco to Ogden?
A. Yes, sir.
Q. And that was part of the so-called transcontinental line made up of itself and the Union Pacific and the other lines to the east?
A. Yes, sir.
Q. And that is what he was there standing for, wasn't he, representing whoever it was?
A. Well, he did not forget at any time the other interests that he represented.
Q. And he was asking for a percentage for the Sunset route?
A. Always, yes, sir.
Q. And he was asking for a percentage for the other line of which the Central Pacific was a part?
A. My memory is not very clear in regard to that, but I do not think there was any segregation of the percentage that the Southern Pacific asked for in this division of expenses and revenue.

8046 Q. Could the Union Pacific get any percentage without the Southern Pacific sharing in it?

A. I don't know what the division of spoils was between the two lines.

Q. Any percentage that the Union Pacific got, that is for that line would be shared in by the Southern Pacific as owning the line from Ogden to San Francisco, would it not?

A. As I say, I do not know.

Q. You do not know?

A. No.

Q. How else could it get its portion of that percentage for its railroad?

A. Well, the advocate for the Southern Pacific always spoke of his percentage as a unit for the line from Ogden to San Francisco and from San Francisco to New Orleans. I never heard any discussion that so much of it should be for the Central Pacific line and so much of it should be for the Sunset line. He might in his own mind have had a division, but so far as I ever heard it was not mentioned.

Q. If that percentage was made he would have to account with the Union Pacific for its proportion?

A. I don't know. I have no knowledge of that particular. It never was developed in any of the meetings that I remember of.

Q. The point is that in those conferences he was representing, whether as a separate interest or as a unit, those two lines?

A. Yes, sir.

Q. Have you any personal knowledge of the Chicago business, the legitimate Chicago business as you call it, that goes to California via New Orleans and the Sunset route?

A. I have not.

Q. That is pretty round about, isn't it? I think we have had it here given as 900 miles from Chicago to New Orleans?

A. I think so. I never went over the route, and I never
8047 worked for it particularly.

Q. Where would 900 miles from Chicago take it on its western journey?

A. Well, somewhat east—well, about 500 miles west of Omaha, 400 miles.

Q. If it went that route it would be 400 miles west of Omaha by the time it got to New Orleans?

A. Yes.

Q. And then it was about as far off from San Francisco as when it started, isn't it?

A. I don't think that there is a great quantity of California freight that is sent that way. I think it mostly went by El Paso.

Q. That is from Chicago to El Paso?

A. Yes, sir.

Q. And then via the Southern Pacific?

A. Yes, sir.

Q. So that the Southern Pacific then got the haul on it from El Paso to San Francisco? That is, the traffic that would be gotten by the Rock Island and other roads running to El Paso either themselves or their connections.

A. I think so: yes, sir.

Q. And there delivered to the Southern Pacific?

A. Yes, sir.

Q. And as compared with going by the other lines and the Union Pacific, going on to the Southern Pacific and Ogden?

A. Yes, sir.

Q. So between the two roads the difference would be the difference of the haul between El Paso and San Francisco, and between Ogden and San Francisco, so far as the original Southern Pacific railroad was concerned?

A. Yes, sir, I should think so.

By COMMISSIONER LANE:

Q. Has there ever been an active and real competition between the Southern Pacific, the Sunset Route, the Union Pacific with its connections, the Oregon Short Line to Portland, and the Northern Pacific for San Francisco business?

A. I don't think, Mr. Lane, I fully understand that.

8048 Q. Has there ever been any competition from eastern points to San Francisco between the three roads, one on the extreme south, the Sunset Route, one in the center made up of the Union Pacific from Omaha west to Ogden, and from Ogden up to Portland and from Portland down to San Francisco by boat and the Northern Pacific from Duluth out to Puget Sound, and from there by boat down to San Francisco?

A. I don't know that there has ever been any competition between the Union Pacific, Oregon Short Line and the Oregon Railway & Navigation Company, or the Southern Pacific for San Francisco business as against the Sunset Route. The Northern Pacific has done, when its facilities enabled it to do so, quite an amount of competitive business for San Francisco. We had a share, getting from six to eight per cent of that business in the early days.

Q. Why is it no longer possible for you to get it?

A. Well, the people won't patronize us. The Short rail lines I think are preferable.

Q. They prefer the short rail lines. What is the difference in distance between freight originating at Buffalo, going to New York by rail, and from New York around by water to Galveston, and Galveston to San Francisco by rail and freight originating at Buffalo, carried by the lakes to Duluth and from Duluth to Puget Sound and then down by water on the other hand?

A. Well, I could not tell you without figuring it up, but I think 1500 miles in favor of the line from Duluth via Portland and the water down perhaps not over 1200.

Q. You have the water haul at the western end and the other
8049 people have the water haul on the eastern end.

A. Well, yes, but the advantages of the Southern Sunset Route on San Francisco business are very great. There is the water competition, they can take their business in New York, gather it up from the various producing points in New England and New Jersey and adjacent to New York, take it into their warehouses in New York and put it all on to one steamer, and have it all reach New Orleans or Galveston at one time. I have understood—it may be good service—but I have understood it was lack of facilities that forced them to take that business right off that very day and send it up to San Francisco in special trains, but unfortunately the all-rail routes cannot equal that service on 6,000 tons of freight that is ready to go on the same day. This whole 6,000 tons on the Sunset Route gets there at one time. If it was not for that service all under one control I should feel quite like opening the line that you mentioned from Buffalo to the Puget Sound to the water and down to San Francisco, but I cannot do it because I have got to depend on a lot of lines between Buffalo and St. Paul to do that same service that they do with their boat direct to New Orleans.

Q. It is because of the superiority of the route and the superiority of the service that there is not active competition between the Northern Pacific and the Sunset, for San Francisco business.

A. We cannot equal that service.

Q. You cannot equal the service that they give?

A. No, sir.

Q. How long since you have tried?

A. Oh, off and on for 20 years. Every time that the boat service on the Pacific has been a little better we thought we could get
8650 in and do some of it, but we have failed almost every time.

We do some business down there, enough so that we are mentioned in the expenses of weighing, and so forth, but not very much.

The CHAIRMAN. You appear in the tariff, do you?

WITNESS. Yes.

Q. You have a through rate, have you?

A. Yes.

Q. Do you think that competitive conditions are the same between the transcontinental lines west running into San Francisco or connecting by boat with San Francisco from the Northern line that would exist, were they all under the same ownership?

A. I don't believe I understood that.

Q. Supposing that the Sunset Route and the Santa Fe and the Union Pacific and the Central and the Short Line and the Great Northern and the Northern Pacific were all owned by the same persons and all under a common direction as to traffic. We will say that Mr. Stubbs was the traffic director. Do you think that the same competitive business would exist then that exists now, and that there would be practically the same condition of things?

A. I think so, yes, sir.

Q. No better and no worse.

A. I don't see how they could be. The rates are not made by the overline carriers in any respect.

Q. They are made by competition between the markets?

A. Very largely by water competition, the Pacific Coast rates. Of course there is no one connected with that trade but what will agree with me I guess, in saying that we get all we can out of it every time.

Q. All you can on the freight?

A. Yes, and it is pretty nearly the cost of handling the business.

8051 Q. So that so far as rates are concerned, or facilities are concerned and competition between the lines is concerned, your opinion is that that condition today would not be changed if all the lines were under a common ownership?

A. I don't think they would.

Comr. CLEMENTS. Why is that so—is it because they all act in unison now?

WITNESS. I should hardly want to put it that way. Tariffs are made. I know of no two competing points in the United States where the tariff is different between points by different carriers over 24 hours or 30 days at least. Perhaps it might be now. Just as quickly as they can get them the same they must do of course, so that the tariffs are uniform. You cannot operate two roads having two sets of tariffs.

Comr. CLEMENTS. Have there been conflicts and contests between competing carriers in years past in which the rates figure away down to almost nothing?

WITNESS. Some very disreputable ones that I have been concerned in myself.

Comr. CLEMENTS. From time immemorial the public generally has believed that there was more vitality in competition and separate ownership, and separate action. Is that all a mistake? Has the policy of the Government been altogether mistaken in regard to that fact? Does it make no difference whether one man owns or controls everything or whether there is a dozen different independent managements existing and independent ownerships?

WITNESS. I think there has been a great deal of mistaken judgment in regard to that. I am not prepared to give a discourse on it myself.

8052 Comr. CLEMENTS. Don't you think your opinion is rather speculative and theoretical as to what would be the effect if all of these roads were under one management?

WITNESS. No, I don't think so. It is based upon a pretty long and hard experience and I have never known anything but temporary warfare and struggles between carriers to get a larger percentage of the business, or something of that kind, that have made any very material difference in the rates, except that there has been a general decrease in them ever since I have been in the business.

Q. Is there more competition today between the Great Northern and Northern Pacific, in the matter of facilities than there was ten years ago?

A. Why, I think it is a little stronger than it was. We have got more money to take care of them now than we had then.

Q. You are more aggressive in competition for business, and better prepared to take care of it than you were ten years ago?

A. I think so. We have spent a great deal of money in the last few years. We have built some very fine warehouses and have spent something like $300,000 in building warehouses on our tracks at Seattle, in order to get the business away from the Great Northern, because they are the only people there except ourselves.

Q. You had put in all your warehouses at Tacoma?

A. No, these are private warehouses that we lease and rent to tenants.

Q. You lease warehouses at Seattle to tenants?

A. Yes, we built some fine brick buildings there.

Q. What was the object in doing that?

A. To get them located on our tracks so that they would
8053 give us a preference in hauling the business.

Q. You had plenty of warehouses in Tacoma, didn't you?

A. None of that character. These gentlemen do business in those houses. They are commission men and so forth. We had plenty of warehouses for wheat, and warehouses to unload and handle our own interchange business with connecting carriers and the ocean, but these are a different proposition.

Q. That is not the most notable achievement of your road in the way of competing with the Great Northern, is it?

A. No, sir, we are spending fifty millions of dollars now to enable us to take care of the business that we have, in the way of double tracks, locomotives, and so forth.

By Mr. SEVERANCE:

Q. Just a word about this answer that you made to Mr. Lane that you think conditions would be the same if all the railroads now competing with each other were under one management. You don't think, do you, that if there was no incentive given to these separate lines to give good service—assuming the rates are uniform—that the same situation would exist that does today?

A. I don't see why it should not.

Q. Well, self interest is the strongest thing to move people to do things in this world.

A. Yes, sir.

Q. Now, if you own a railroad and I own a railroad and we are reaching the same points and I am trying to get the business and you are trying to get the business, although we may agree to charge the same rate, we will each try to give better service than the other.

A. We each ought to try to give the best service we can.

8054 Q. If a shipper has a lot of commodities to transport and we are each after them and one of us is able to give the cars quicker than the other, he will get the business naturally?

A. Yes, sir.

Q. Or, if he can give quicker service in transit?

A. Yes, sir.

Q. You don't mean to say, do you, that if you eliminate all that activity, the situation will be just the same as it is now where that activity exists?

A. I don't know what you mean by eliminating the activity. The management of the Northern Pacific Railroad, the only one that I know intimately about is putting on extra passenger trains today, locally in Montana where we have no competition whatever, because the people complain about waiting for our delayed overland train. We don't have to do that because there is any ownership except our own.

Q. You often travel between St. Paul and Chicago, don't you?

A. Yes, sir.

Q. And you unfortunately I suppose sometimes have to travel between Boston and New York. Now, don't you think that that is a pretty good object lesson on the point that you have under discussion. When you compare the kind of trains that run between New York and Boston, those midnight horrors that they have, with the trains between here and St. Paul where there are four or five lines fighting for the business. Don't you see some difference in the condition resulting from common ownership, a different condition from the separate ownership that they have up here?

A. I did not suppose matters between New York and Boston were as bad.

Mr. MILBURN. You must have had a bad night.

Mr. SEVERANCE. I have had many a bad night on those trains.

8055 Q. Isn't that the secret of the fine service that there is between here and St. Paul and Minneapolis, because there are four or five roads actively working for the business, don't that result in putting on fine trains and keeping up the equipment and giving good service?

A. I don't know. I should be ashamed if I was connected with the Milwaukee & St. Paul and had the passenger business between here and the Twin Cities that they have, not to give good service for it.

Q. Well, they do give good service, don't they?

A. I don't believe it is because somebody else is giving good service that they do it.

Q. You don't think it makes any difference if there are other lines preparing to take the business and give good service. You think the whole thing is done from a sense of duty and that competition does not cut any figure?

A. That is my view.

Q. Then, I suppose that view extends to all branches of industry, don't it? You regard the generous heart as being better than competition.

A. I don't know a damn thing about anything but the railroad business. I never did anything else.

By Mr. KELLOGG:

Q. What is competition in railroads?

A. I don't know that I am intelligent enough to give you a definition in a few words of that. I know what it is and I have felt its influence a great many times. I think where two roads are soliciting the same business between the same points, that they might be called competitors for that business.

Q. Now, you said all the lines west of Chicago reaching the Pacific Coast were competitors for transcontinental business?

A. Yes, sir.

8056 Q. Now, what does that competition consist in?

A. Each trying to get it and carry it and get the revenue out of it.

Q. And it has in the past resulted many times in one of the lines cutting the rates, or reducing the rates by tariffs or otherwise?

A. Yes, when they thought they were not getting a fair share of it or when they thought someone else had got in before them.

Q. That is what you call competition, is that right?

A. That is competition or the effect of competition.

Q. Now then, you say if every railroad in the United States belonged to one corporation the competition would be just as great as it is today, do you?

A. I do if you think that cutting rates is the only thing that there is in competition.

Q. No, I am asking you the general question.

A. That is rather a larger proposition than I should want to answer.

Q. Well, all the transcontinental lines then.

A. I think the service would be as good as it is now and the rates would be practically the same.

Q. I asked you if the competition would be the same if they all belonged to one corporation.

A. I think so.

Q. There would be the same struggle for the business for each separate line?

A. Each one of them would have to have its corps of officers who would be compelled to get all they could for their line.

Q. The same reduction of rates to get business, as against each other?

A. It is pretty hard to reduce rates now. I do not know about that.

8057 Q. You don't know about that?

A. I think reductions would be continually made, but you said reductions against each other.

Q. Yes, that is exactly what I said.

A. I don't know that there would be any reduction against each other.

Q. There would be no interest for doing it?

A. There would be a reduction to get the business.

By Comr. HARLAN:

Q. Would you, as traffic manager of the Northern Pacific, make a reduction as against Hannaford, the traffic manager of the Great Northern, in order to get business for the Great Northern?

A. No, I don't think I would.

Q. In other words, if you represented the interests of both roads you would not make a reduction, would you?

A. I think I would.

Q. On one as against the other?

A. No, but on both at the same time.

Q. No, but I say on one as against the others.

A. I don't know why I should make it on one as against the others.

Q. You would not do it because you represented both interests and that would be the reason, would it not?

A. Well, I don't know, I should expect——

Q. How could Hannaford, of the Northern Pacific, reduce rates on Hannaford of the Great Northern, if he represented both interests?

A. Not without both of them knowing it, surely.

Q. That is, Hannaford of the Great Northern would have to consent to it?

A. Yes, I might do that.

Q. Isn't it manifest, Mr. Hannaford, that the substitution of one rate-maker on two roads, for two rate-makers on two dif-
8058 ferent roads eliminates the possibility of a difference of opinion between the two rate-makers? In other words, I, of the Great Northern, may think the rate is too high and I would want to reduce it, and you, of the Northern Pacific, might think it was all right. If I reduce it you would have to meet it, wouldn't you?

A. Yes, that is correct.

Q. Now, if you made the rates for both roads, you could not make it against your own judgment for the Northern Pacific.

A. No, but I should probably be moved by the same influences as you as traffic manager of the Great Northern were moved to reduce it.

Q. I just want to get at this as a matter of logic and reason, whether you mean to say and mean us to understand that the ownership of all the railroads of the country in one corporation would not result in curtailing the competition as expressed in the form of the making the rates. Do you mean the country to understand that to be your answer?

A. You mean, if I follow you correctly, that if the Government owned the railroads of the United States, that the rates would be on a higher basis than they are now?

Q. Oh, no, no, we are not talking about Government ownership at all.

A. Well, that is one ownership.

Q. Well, let us limit it to the Northern Pacific and the Great Northern.

A. Limit it to two roads and I can perhaps grasp it.

Q. Well, limit it to those two roads the Northern Pacific and the Great Northern. Now, do you mean to say that the substitution of one rate-maker for two rate-makers for those two roads would have no effect upon the possible reduction of rates?

8059 A. I don't think it would. Assuming that the man handling them handled them to the best of his ability.

By Comr. LANE:

Q. Do you think in the matter of facilities that competition is of value?

A. I suppose it has a certain bearing, but we have uniform rules for providing facilities. I suppose you mean by that side tracks?

Q. I mean for instance the providing of cars. Let me give you an illustration. We have recently held a hearing in Minneapolis and Chicago on the question of Car Shortage. We had reports for instance from Iowa that at their competitive points it was comparatively easy to get cars, but at the non-competitive points it is difficult; that in the northwestern country the elevators at competitive points had less difficulty in getting cars than the elevators at non-competitive points. Now, suppose that these non-competitive points were turned into competitive points and two roads were disputing for the traffic, would there not be a rivalry as to the furnishing of cars to those elevators in order to get the business?

A. There might be. That would depend upon the personnel of the people who were handling the road. I don't want to put it in that way. I don't think you heard of anything of that kind on the Northern Pacific. I have asked some of the elevators at competitive points on our road if they would not use the other line anyway to help them get the grain out. The situation has been very bad with us, something that we have deplored considerably. We have taken cars of our elevators that could not get help from anybody else in preference to elevators at those junction points where there was more than one outlet.

8060 Q. So that you do think, then, that there is a value in competition between roads in the securing by the shipper of facilities in transportation?

A. Oh yes, some.

Q. That is, under the present condition of things it would be far better to have roads competing between each other than to have one

road own all the transportation facilities of the country, so far as the shipper getting his car is concerned?

A. I would not want to say yes to that question just in that way. I think there are conditions under which competition perhaps—where a would-be shipper has got better service by there being two roads than where there was one. I think those are rather exceptional cases, though. It depends largely on the management.

Mr. KELLOGG. You think the philanthropic gentlemen down in New York who control and own these railroads will in the very nature of things give the very best service possible whether there is competition or not?

WITNESS. Well, I don't think they have but very little to do with the facilities and service that is given. I think the men that operate the roads will give the best they can.

Mr. MILBURN. Leaving the philanthropy out of it and taking yourself as manager of an extensive system that had previously consisted of independent lines, don't you think you could move your cars and your other facilities a great deal more effectively for the transaction of the business of the whole system than if the system consisted of many independent systems each holding on to its own cars at critical junctures, for operation?

Comr. LANE. You mean, wouldn't it be beneficial to have a 8061 car-clearing house or pool?

Mr. MILBURN. Well, say a single management of a railroad.

WITNESS. I think the free interchange of cars, a freer interchange of cars than we have had in the last six months would relieve the situation considerably.

Mr. MILBURN. Not that I am arguing in favor of it, but simply as getting at the natural results. Don't you think a big system comprehending a number of railroads facilitates the best use of all the facilities of that system rather than the same system broken up into a number of separate concerns independently operated?

WITNESS. Well, I should think so.

Q. Don't you think that it is possible for the railroads as individual systems, by co-operation to effect that same thing without any ownership whatever?

A. Yes.

Mr. MILBURN. Then, you are eliminating competition to just that extent that you co-operate, are you not?

Comr. LANE. Well, what is his answer to that?

WITNESS. Why, yes.

Mr. MILBURN. If you co-operate for car service you are eliminating competition with respect to car service.

WITNESS. The road that has the most cars—there won't be any road that will have the most cars, of course, under those circumstances.

Q. Do I understand you to say that if all of the systems, we will say, in this part of the country united in a general car pool and by common direction the cars could be turned from one place where

cars were not needed to another point where cars were needed,
8062 that that kind of co-operation would be an elimination of competition?

A. In car service.

Q. In car service but not in competition for the business at all, would it?

A. No, not at all.

Q. That is what we are talking of, isn't it, it is car facilities furnished to the shipper?

A. You would have to be very careful about that because it cannot be confined to one locality. It would have to be a general proposition. Our cars are today away down in Florida and Alabama and we cannot interchange freely with those roads.

Q. Simply because you cannot get them back?

A. Unless we could get them back.

Q. Because the other roads take them away from you and keep them. But that is not the trouble on your road, because you have over two thousand more cars than you are entitled to.

A. I do not know about that.

By Mr. MILBURN.

Q. I want to ask one question, Mr. Chairman, and then I will be through. Taking your line, as manager of the Northern Pacific, today, using all your forces to act as against your rivals and competitors, to get all the business that you can, to what extent does the change, of lawful rates I mean—lawful I mean now—cut any figure in that competition for business; do you get my point?

A. No, I do not, Judge.

Q. How much of a figure—as you are managing your railroad and as you are conducting it and striving for business—how much of a figure does the change, the actual change in the lawful rates, a change in a lawful way of your rates? How much business in
8063 this competition do you get by changing your rates that you would not otherwise get, by lawfully changing your rates? How much of an agency is that in this business competition under present conditions?

A. Well, it could be made considerable of an agency.

Q. As a matter of actual experience as the business is done? If you reduce your rates you know that your competitors will come to you.

A. If I reduce without consulting with the gentlemen that are going to be benefited by it, yes, sir.

Q. I am talking as the business is actually done, how much of a figure is this power of changing your rates lawfully?

A. Why, I think it is a good deal of a figure.

Q. You think it cuts a good deal of a figure, do you?

A. Yes.

Q. In getting business to-day, you all have the same rates.

A. Not perhaps in getting competitive business as it is in building up business. You have got to adjust the rates in building up a business.

Q. You all have the same rates to-day for your competitive business?

A. Yes.

Q. Haven't you?

A. Yes.

Q. You are striving for it under that system of things of common rates?

A. Yes.

Q. Or your competition is carried on with those common rates, is it not, today?

A. Yes.

Q. A power that you are not exercising is not helping you in your present competition.

A. There is a power there that you can exercise, you know.

Q. You are not exercising it.

A. Sometimes I am as far as I am requested.

8064 Q. Lawful change I mean, not unlawful.

A. If it is made perhaps for unlawful purposes.

By Comr. LANE.

Q. That power to reduce rates is largely a power that is used as a threat and over other railroads.

A. No, I don't think so. Very often it is a question of judgment with the manager of a certain road or a certain system of roads. He believes that the business can be materially increased in a direction perhaps where he needs the reduction of rates.

Q. Well, I can say to you, "If you cut down your rate on this traffic from that common point, I will cut my rate from another common point on another product," and that will prevent you from making the change which you contemplate.

A. I will if I feel I am going to lose more than I am going to gain by it. The day was when it would not, but I have got older now.

Q. You see the wisdom of acting in harmony.

A. It would drive me out of any proposition of that kind if it was going to cost dollars and cents.

Q. Is that the reason you don't go into San Francisco market for business?

A. No, sir.

Q. It is not that you have practically agreed to divide the territory up and surrender San Francisco to the Southern Pacific?

A. No, sir, nothing of that kind; we have no arrangement with the Southern Pacific of any kind and we received no benefit from staying out of it.

Q. Do they leave you alone up in your territory?

A. They cannot get up there very well unless under this new arrangement they have. We took that into the courts and put

8065 up a gate at Portland and shut them out from coming up there and the courts sustained it.

Q. Then they regarded that as your territory for a while, but now they are making an effort to break down the gate.

A. No, I don't think—they didn't have anything to do with forming this new law. I am afraid it is going to break it down.

Q. You think they are likely to come up there?

A. I think so.

Q. You think that would be injurious to the Southern Pacific?

A. I think it would be injurious to the Northern Pacific. I would rather they would build a line up there.

Q. You would rather they did?

A. Yes.

Q. You think now they will go in over your tracks?

A. Well, there is a question about it. I am rather in hopes to have you gentlemen decide it favorably to my wishes. This proposition of making tariffs from any junction point and compelling any road to take its locals will let them do that because our locals from Portland to Puget Sound, by reason of water competition are very low. We built a road clear across the continent for the express purpose of carrying that business. We hope to take it down to Portland, but we hate to take it down there at the low local rates that are made necessary in the Puget Sound region. There is no law, understanding or reason why they should not build a road up there if they want to, but I hate to have them use ours.

Q. Suppose you use the water and just get your road a little of the San Francisco business, they might compromise by not going up there.

A. I don't think so. The rate from every point in the east to
8066 San Francisco is exactly the same as it is to Seattle, that is near enough for all practical purposes. The distances are about the same. Now, in cutting that we might get a small amount of business, on the small amount of business that we should get from San Francisco we would have to carry through a very large business on our own reduction of that rate. We cannot reduce the San Francisco rate without reducing the Puget Sound and Portland rate. If I could I think I should carry a larger percentage of the San Francisco business than I do, but I cannot do it. I have got to pay the penalty myself by cutting the rates on our own business.

Q. That is the reason, I suppose, that it is not wise for them to carry business up into your territory from San Francisco by water, because you have got to treat your terminal rates on San Francisco Bay and Puget Sound as sacred to yourselves?

A. I don't know whether it behooves them any to do some of it or not, but there is not any understanding with us in regard to it.

By Commr. CLEMENT:

Q. If you were traffic manager for all the transcontinental roads and their earnings were going into the pockets of the same owners,

no matter from which line the earnings came, you would still be under every inducement to make the best possible showing that you could for the Northern Pacific and earn all that you could for the property?

A. I think so.

Q. If the owners called on you for increased earnings or increased dividends, would it not be much easier for you to produce that
8067 result than it would be if there were half a dozen different managers representing half a dozen different complicated ownerships in these several roads?

A. I do not think so. I think if I was running one of them I could do that a good deal easier than I could if I was running all of them.

Q. You think you could increase the rates on your road and manage in competition with the others easier than you could if you managed all of them?

A. Yes, because we could not raise the rates without your consent.

Q. You could not?

A. Not very much. You would be sort of watching over that, I guess.

Q. We might be doing something about it. We don't make your rates.

A. No, but you do not allow any raise of them without giving you thirty days' notice that we are going to, and people these days don't stand a raise very pleasantly.

8068 Mr. LOOMIS. I now offer in evidence, pursuant to our stipulation, the testimony given by Mr. B. Campbell, a witness before the Interstate Commerce Commission, who testified at Seattle, on January 21, 1907. I understand it is agreed by all parties that this testimony may be written into the record and have the same force and effect as though Mr. Campbell were upon the stand, giving the same testimony:

Mr. SEVERANCE. Yes.

B. CAMPBELL

testified:

By Mr. SEVERANCE.

Q. Mr. Campbell, where do you live?

A. St. Paul.

Q. And what is your business?

A. Fourth vice-president of the Great Northern Railway.

Q. And how long have you occupied that position?

A. Two years.

Q. And what particular department of the railroad business is under your jurisdiction?

A. Traffic.

Q. Prior to the time you came to the Great Northern what was your railroad experience—well, we will say for fifteen years prior to that time?

A. General freight agent and traffic manager, and assistant traffic director of the Oregon Railroad & Navigation Company, and the Union Pacific.

Q. That is, you were the general freight agent and the traffic director of the O. R. & N. and its predecessors before the receivership, and were for a time the assistant director of traffic of the Union Pacific, Oregon Short Line, Oregon Railroad & Navigation Company, and Southern Pacific, were you not?

8069 A. That states it about right.

Q. Yes; you were assistant to Mr. Stubbs at Chicago.

A. Yes, sir.

Q. And how long were you with Mr. Stubbs in Chicago; when did you go there and when did you leave?

A. Two years. I went there in the early part of 1902 and left at the end of 1904.

Q. And were you succeeded there by Mr. Store or Mr. McCormick?

A. By Mr. Store.

Q. During the time you were with Mr. Stubbs what were your duties?

A. Supplementary to those of Mr. Stubbs.

Q. Well, if we knew what Mr. Stubbs' duties were that would be a good answer, but could you give us a little fuller answer?

A. Well, he was in general charge of the traffic of the Union Pacific and I was his assistant.

Q. Well, not only the Union Pacific, but of the other lines that I have mentioned, wasn't he?

A. Yes, sir.

Q. And under Mr. Stubbs you had supervision of the traffic of these four roads; that is, the Southern Pacific, the Union Pacific, the Oregon Short Line and the Oregon Railroad & Navigation Company?

A. Yes.

Q. Were your duties connected particularly with either the freight or the passenger department, or with both?

A. With both in a general way.

Q. Now immediately prior to going to Chicago with Mr. Stubbs, what was your position?

A. Traffic manager of the O. R. & N.

Q. And your headquarters were where?

A. At Portland.

Q. And how long did you occupy that position?

A. About seven or eight years.

8070 Q. And before that you were general freight agent, were you?

A. General freight agent.

Q. With largely the same duties as you had as traffic manager?

A. Except jurisdiction over the passenger department—had to do with freight exclusively.

Q. But you had jurisdiction over passenger as well as freight when you were the freight manager?

A. Yes—no, when I was traffic manager.

Q. I mean traffic manager.

A. Yes.

Q. The Oregon Railroad & Navigation Company in your day, when you were at Portland, owned or operated what transportation lines?

A. The rail lines extending into Oregon and Washington, probably a thousand miles; certain steamboat lines on the Willamette, Columbia and Snake Rivers; a line of steamships between Portland and San Francisco, and between Portland and the Orient.

Q. Now, Mr. Campbell, your main line of railroad extended from Portland to Huntington, did it not?

A. Yes.

Q. And at Huntington you connected with what line?

A. With the Oregon Short Line.

Q. And that in turn at Ogden or Granger both connected with the Union Pacific?

A. Yes.

Q. And there was a through freight service, was there not?

A. Yes.

Q. And a through passenger service?

A. Yes.

Q. Through Council Bluffs, in fact from Chicago by way of the Northwestern, there was a through passenger service to Portland, was there not?

A. Yes.

Q. And a through freight service from Council Bluffs and
8071 points east by connecting lines?

A. Yes.

Q. Now you speak of certain steamboats on the rivers; where did the boats run on the Willamette River?

A. Between Portland and Corvallis.

Q. How far up the river is that from Portland?

A. Substantially a hundred miles.

Q. How frequent a service did you have with those boats?

A. It varied according to the stage of the water.

Q. Well, between what?

A. Daily service as far as navigation would permit, say as far as half of the distance, and irregular service beyond that.

Q. And did that line do both a passenger and freight business?

A. It did.

Q. Both up into the country and back from the river?

A. Yes.

Q. Now your steamship line you say, one steamship line ran from Portland to San Francisco?

A. I did; yes.

Q. Those ships were owned by the Oregon Railroad & Navigation Company, were they not?

A. They were.

Q. How many ships did you have?

A. There were three for the most part.

Q. Do you remember the tonnage capacity?

A. About twelve and fifteen hundred tons each.

Q. And were those ships engaged in both passenger and freight traffic?

A. They were.

Q. Carrying passengers from Portland to San Francisco, and bring passengers up from San Francisco to Portland?

A. Yes.

Q. And freight likewise?

A. Yes.

Q. Did these steamers take down to San Francisco some of
8072 the traffic that originated up the Willamette River and which was brought into Portland by your steamboats?

A. They did.

Q. What was the nature of that traffic?

A. Chiefly farm products.

Q. Well, a little more definite, what kind of farm products?

A. Wheat, oats, potatoes, hay—well, not much hay; some paper manufactured on the Willamette River; those were the chief items.

Q. Did any hops move by the steamers, or did they go by rail?

A. Principally by rail.

Q. Did any go by steamers?

A. Occasionally some; yes.

Q. Now as to that traffic along the Willamette which you brought in from the country, was your line of steamships competitive with the Southern Pacific line running south from Portland?

A. No.

Q. In no particular?

A. No. The Southern Pacific did not assume or undertake to meet the competition of the ocean line.

Q. I am not speaking of the ocean line; I am asking you—

A. No. The through line from the Willamette Valley points and the Southern Pacific were not competitors.

Q. Well now, what you mean by competitors is, they did not make the same rates?

A. Did not make the same rates.

Q. But they were both soliciting to some extent the same class of business and carrying the same class of business, were they not?

A. I don't think the Southern Pacific solicited the business actively or if it carried any of it. Up to the time I was familiar with the situation the Southern Pacific did not attempt to make rates from that territory south that were low enough to compete with the ocean, with the all-water carrier.

8073 Q. Now, let's see, Mr. Campbell. We will first take up the Willamette Valley boats. Wasn't the business transacted by the boats on the Willamette Valley competitive with the Southern Pacific into Portland?

A. It was.

Q. Yes; as to practically all of the traffic, wasn't it?

A. Yes, sir.

Q. And from Portland on that traffic moved largely by steamer, did it?

A. Yes, sir.

Q. You say that there were potatoes brought down by that steamboat line on the Willamette River to Portland?

A. Yes, sir.

Q. Is it not a fact that potatoes also moved from that same region south to San Francisco over the Southern Pacific?

A. I do not think to any considerable extent where it was in competition with the all-water route.

Q. I will ask you whether as a matter of fact, from that same region that was tapped by these steamboats on the Willamette, did not potatoes move south over the Southern Pacific?

A. I do not think so; not to my knowledge.

Q. You don't know of any?

A. No.

Q. Did any potatoes move south over the Union Pacific from that part of Oregon; I mean the Southern Pacific?

A. Oh, when it was beyond the reach of the all-water carrier, say south—I think Salem was a point, or Eugene, the upper Willamette Valley points, yes.

Q. Well, boats ran to Salem, didn't they?

A. Yes. From Salem south, no, or from Salem north, no.

Q. Well, take Salem as a point; didn't potatoes move both ways from Salem?

8074 A. Yes; I don't think they moved by rail from Salem to San Francisco.

Q. They didn't?

A. I don't think so.

Q. Did they from anywhere within the vicinity of Salem?

A. Yes, from points farther south where they were remote from the all-water route, I think they did.

Q. But you think there was no substantial competition between that water route, I mean up the Willamette, on potatoes as against the Southern Pacific to San Francisco?

A. Generally speaking, I think not. I think the all-water route virtually controlled the business.

Q. But there was some?

A. Oh, there may have been some.

Q. But not a great amount?

A. That could only be determined by reference to the records. I could not tell you from memory because I really don't know.

Q. Now, take the item of hops. Were hops carried by the boat at all?

A. To a limited extent.

Q. And were they also carried south by rail?

A. We carried through to the seaboard by rail. They didn't as a rule go to San Francisco by rail.

Q. Well, that is what I mean.

A. Yes.

Q. The hops originating in the Willamette Valley moved to the seaboard over the Sunset Route, did they not?

A. Yes.

Q. And they also moved to the seaboard by the Union Pacific route, did they not?

A. Yes.

Mr. LOVETT. What do you mean by the seaboard, the Atlantic seaboard?

Mr. SEVERANCE. Yes; and to points west of the Trans-Atlantic seaboard; that is true, is it not, Mr. Campbell?

8075 WITNESS. I suppose it is; I cannot tell you as a matter of fact whether any went west of the seaboard or not.

Q. But they did to the seaboard?

A. They did to the seaboard.

Q. And did they also to some extent move by this steamship route to San Francisco and thence transferred by rail to the seaboard?

A. I think not; I do not know of any such case.

Q. You do not know anything of that?

A. No.

Q. But they did move as far as San Francisco at a time by boat?

A. To a very limited extent.

Q. Yes, but to some extent?

A. Yes.

Q. Now, how did your passenger traffic from Portland to San Francisco,—is there a considerable amount of that over these boats of the Oregon Railroad & Navigation Company?

A. No; except between Portland and San Francisco, probably.

Q. That is what I am asking about.

A. Yes.

Q. There was a large traffic in that, wasn't there?

A. Yes.

Q. And there was also a passenger traffic between Portland and San Francisco by rail?

A. Yes.

Q. And as to that business, the line of steamers that was run by the O. R. & N. and the all-rail route of the Southern Pacific were strictly competitors, weren't they?

A. They were competitors.

Q. Now, Mr. Campbell, as to business originating in the east destined to Portland, that is originating in the Atlantic seaboard territory, didn't that business, some of it, a considerable amount per-

haps—I won't ask you to give the amount, but some of it at least moved to Portland by the Sunset Route, did it not?

A. A small quantity of it did.

8076 Q. Yes; and the Sunset Route was made up of the Morgan line of steamers from New York to Texas points, and then all rail line of the Southern Pacific from that point to Portland?

A. Yes.

Q. And business from that same territory, in fact the larger part of the business from that same territory came to Portland all rail over the Union Pacific, Oregon Short Line and Oregon Railroad & Navigation Company, and other eastern connections, did it not?

A. And the Northern Pacific.

Q. Yes.

A. Yes.

Q. So that there were the three systems there that were handling the Portland traffic from the seaboard territory?

A. Yes.

Q. How were the rates upon these three lines of communication to the seaboard, I mean the ordinary published rates, were they the same?

A. They were generally equal.

Q. Generally equal, yes; now it is a fact, isn't it, Mr. Campbell, that years ago, say ten years ago, the Southern Pacific, Sunset Route, cut the rates in competing for that Portland business as against the Union Pacific line and the Northern Pacific?

A. Not to my knowledge they never did.

Q. Did you never know of rates being cut to Portland from the Atlantic seaboard territory?

A. I have been told that they were, but as a matter of fact I do not know that they were.

Q. That is, you did not pay the cut rate?

A. No, and no other rate.

Q. But you know as a practical matter as a railroad man, and you found out in your experience also in competing with the Southern Pacific that they were making lower rates at times in an effort to get that business, didn't you, Mr. Campbell?

8077 A. Well, we will say for the sake of progression, that they were.

Q. Yes, that is what I thought. And that business for which they were competing in that way was merchandise and things of that character coming through from the seaboard territory?

A. Yes, sir.

Q. They not only cut the rate as you believe, from what you have heard and competed for the business, but they got considerable by doing so, didn't they?

A. I think not at any time more than from three and five per cent of the Portland competitive business.

Q. That is your best judgment, based upon your general knowledge of the situation?

A. Yes, sir.

Q. Did the O. R. & N. in those days maintain eastern commercial agencies or were they represented by the Union Pacific?

A. Well, a short portion of the time they maintained one agent in Chicago, but generally speaking they relied upon the Union agencies.

Q. To secure the business?

A. Yes, sir.

Q. Now you spoke of a steamship line to the Orient. You remember, don't you, Mr. Campbell that somewhere about 1897, a line of boats was established in connection with the Oregon Railroad & Navigation Company, known as the Dodwell?

A. There was such a line operated prior to 1901; I presume it was in 1897; they operated for three years.

Q. Yes, they operated three years. They operated down to 1900, didn't they, or perhaps nearly the beginning of 1901?

A. Well, probably yes.

8078 Q. Where did those ships touch in the Orient?

A. Regular ports of call in Japan and China.

Q. The same ports to which the ships of the Pacific Mail and the San Francisco lines proceed?

A. Yes.

Q. Did the Oregon Railroad & Navigation Co. maintain commercial agents in the Orient and solicit traffic for that line?

A. No, sir.

Q. How did you get your traffic?

A. Through Dodwell & Co.

Q. Oh, they maintained agencies?

A. Yes, sir.

Q. Dodwell & Co. owned the ships, didn't they, or at least chartered them?

A. They had them under charter, I believe.

Q. Had them under charter, and they were operating under a contract with the Oregon Railroad & Navigation Company?

A. Yes, sir.

Q. And the cargoes that they brought to the port at Portland from the Orient insofar as they were destined to points in the east were delivered to the Oregon Railroad & Navigation Company, were they not?

A. They were.

Q. And they went east over that line and the Oregon Short Line and the Union Pacific?

A. They did.

Q. And they were distributed, were they not, over the middle west, and in fact all the country east of the Missouri River and perhaps some territory west of there?

A. Generally speaking, east of the Missouri River.

Q. Yes, and as far as the seaboard?

A. Yes.

Q. Would you mind naming those ports of call that you spoke of in Japan and China?

A. Yokohama, Kobe, Nagasaki, and Shanghai and Hong Kong.

8079 Q. Were you at that time familiar with the line of steamships going out of San Francisco known as the Occidental and Oriental line?

A. I know that there was such a line.

Q. And that also proceeded to the same ports of call in the Orient, did it not?

A. Yes, sir.

Mr. LOVETT. What lines were they?

Mr. SEVERANCE. The Occidental & Oriental. It did, didn't it?

WITNESS. Yes.

Q. After the Dodwell boats ceased running there, that is, after the contract expired you had some boats for a short time operated by a company controlled by Mr. Graham, didn't you?

A. They were operated some way in connection with it. There was an irregular service operated for a short time by vessels which a man by the name of Graham claimed to have under his control.

Q. And after Graham quit or perhaps before the Oregon Railroad & Navigation Company organized a corporation of its own, did it not, to handle the steamship business, called the Portland & Asiatic?

A. It did.

Q. That was in 1900, wasn't it?

A. I believe so.

Q. And those ships, the ships of that line are still running, are they not, as far as you know; they were when you left the service of the Union Pacific Company, were they not?

A. Yes, when I left the service of the company they were.

Q. And did that line of boats make the same ports in the Orient as the Dodwell line?

A. They did.

Q. Did the O. R. & N. have commercial agencies in the

8080 Orient soliciting business for those boats?

A. It had a general agency.

Q. Where was that?

A. At Hong Kong.

Q. And who was the agent?

A. Mr. Cameron.

Q. Mr. Cameron; do you know where Mr. Cameron is now?

A. He is in London, I believe.

Q. Do you know what his position is at present?

A. He is European agent for the Canadian Pacific.

Q. When did he leave the service of the Portland & Asiatic Company, if you remember?

A. I think within the year.

Q. Did he have sub-agencies at the other ports, or don't you know about that?

A. Yes, had two or three.

Q. One thing I forgot to ask you, Mr. Campbell, when we were talking about these boats on the Willamette River; did they carry passengers also?

A. In a limited way, yes.

Q. From Salem down to Portland?

A. Yes.

Q. Salem is a point on the Southern Pacific?

A. It is, yes.

Q. Now, as to the passenger business on these steamships between Portland and San Francisco, during the summer months were the rates practically the same as the all-rail rates over the Southern Pacific?

A. No, they were substantially the same both winter and summer on the ocean.

Q. Both winter and summer?

A. Yes.

Q. The rates were substantially the same?

A. Yes, sir.

Q. Now, Mr. Campbell, coming down to the spring of 1901 when the Union Pacific purchased the stock of the Southern Pacific road, you still continued there in Portland as the traffic manager of the O. R. & N., did you not?

A. Yes, sir.

Q. But you had in addition, did you not, to your duties
8081 with the O. R. & N., some kind of relation to the Southern Pacific that you held?

A. In an advisory way.

Q. In an advisory way: and did you report after that time, that is when the bureau was established, to Mr. Stubbs in Chicago?

A. Yes, sir.

Q. Who is Mr. R. B. Miller?

A. Present general freight agent of the O. R. & N.

Q. And how long has he occupied that position?

A. About five years, I think.

Q. Previous to that what was his position?

A. General freight and passenger agent of the Southern Pacific lines in Oregon for a short time.

Q. And previous to that?

A. Assistant general freight agent of the O. R. & N.

Q. That is, he was—in the first place he was assistant when you were general freight agent?

A. Yes, sir.

Q. And then he went from you to the Southern Pacific and then came back to the O. R. & N.?

A. Yes, sir.

Q. And hasn't he also at this time a connection with the Southern Pacific lines in Oregon?

A. I don't know that.

Q. You don't know what his position is?

A. No.

Q. Well, we can prove that otherwise. Now, Mr. Campbell, was there an agent by the name of Morse?

A. Yes, sir.

Q. What was his business?

A. Soliciting freight agent in Portland for the O. R. & N.

Q. Was there a man by the name of Coman?

A. Yes, sir.

Q. What was his position?

A. I have almost forgotten his movements; he was for a
8082 time general freight and passenger agent of the Southern Pacific lines in Oregon. I think for a time prior to that he was——

Mr. LOVETT. At Salt Lake?

WITNESS. Salt Lake City, yes, sir.

Q. For the Southern Pacific?

A. For the Oregon Short Line.

Q. Do you know a man down there by the name of McCusker?

A. Yes, sir.

Q. What was his business?

A. He was soliciting freight agent for the Southern Pacific lines in Portland.

Q. Do you recall, Mr. Campbell, that some time after the purchase of the Southern Pacific stock by the Union Pacific, that you called these various gentlemen that I have named, or at least a part of them, into a conference in your office in Portland and told them in substance that in the soliciting of business for these lines they should solicit the Atlantic seaboard business for the Sunset Route and business west of seaboard territory for the Union Pacific route unless the shipper was particularly anxious to have the stuff the other way, or in substance that?

A. There was such a conference, but no such instructions were given.

Q. What was stated at that conference?

A. The instructions were given that each representative should work for his own road in preference; failing to get the business that way, to work it for the other.

Q. Wasn't it stated in that conference that the effort should be made to get the business from the seaboard routed over the Sunset Route?

A. I don't think so. I don't think any such instructions
8083 were given, because I am sure that the Union Pacific was not put out of the seaboard business with its connecting lines.

Q. That is not what I am asking you, Mr. Campbell. I am asking you whether, as a matter of fact, in that conference you did not either instruct or advise, I don't care which you call it, that the business from the seaboard territory should be secured if possible,

without offending the shipper or disobliging him, over the Sunset Route?

A. To the best of my memory, no, sir.

Q. Didn't you yesterday, Mr. Campbell, tell me in your room at the hotel, that you stated that to these gentlemen?

A. No, sir, I don't remember that I stated any such thing into the hotel yesterday.

Q. What did you say, if you did not say that?

A. I did not finish saying very much about it yesterday.

Q. I asked you about that, didn't I?

A. You did, and I told you there was such a conference and you described the nature of that conference, what was said there and so forth, and I did not—I don't think I confirmed, did not intend to confirm, did not mean to confirm what you stated had been the instructions given at Portland.

Q. Well, Mr. Campbell, you did say this, didn't you——

A. (Interrupting.) But to the best of my recollection the instructions were as I have stated them here this morning, that each man would work for his own interest; failing to get the business that way, to help out the other fellow. But I am quite positive in the nature of things that have existed, as they have existed since that time and up to the time I was last familiar with the workings of the
8084 lines, I am quite confident that the Union Pacific—that the instructions which you describe were not given.

Q. Well now, Mr. Campbell, in this conversation, this informal conversation I had with you yesterday, you say that I described it; I described it to you as I have asked it, in the main, didn't I?

A. Yes.

Q. And you certainly led me to understand that that was the fact; you did disaffirm that, did you?

A. No, I don't think so.

Q. No.

A. I don't think so.

Q. You do remember such a conference, that is, you remember a conference with those gentlemen, that you called together after the acquisition of the Southern Pacific stock by the Union Pacific?

A. I do indistinctly remember the calling of such a conference.

Q. Yes. Now prior to that time, Mr. Campbell, you as Traffic officer of the O. R. & N. had never assumed to give any instructions, had you, to the Southern Pacific soliciting agents?

A. No, sir.

Q. But you did assume to do so, at least advise them at that time?

A. Yes, sir.

Q. And by whose authority were you acting, in giving advice to the Southern Pacific agents?

A. In that particular case I think on my own initiative.

Q. Well, in general.

A. In general, of course the directions emanated, the general instructions emanated from Mr. Stubbs' office.

Q. And were your general instructions from Mr. Stubbs' office that as to the business at Portland you were in chief control so that you could call any Southern Pacific men and give them advice or instructions?

8085 A. Well, I should think yes would be a proper answer to that.

Q. Yes. You had a name, didn't you, for the Sunset Route there; you called it the Hundred Per Cent route, didn't you?

A. Why, I have heard it called that. Any line that gets the entire—the entire length of any line is usually described as the hundred per cent route.

Q. Yes. Well, you have heard at Portland the Sunset Route, seaboard route described as the hundred per cent route, haven't you?

A. I would say yes to that.

Q. Yes. Now as to the business originating on the seaboard, if it came by the Sunset Route a hundred per cent of the revenue, of course, came to the Southern Pacific, did it not?

A. Yes, sir.

Q. Now, in order to get that business, isn't it a fact that the Southern Pacific absorbed the rate into New York—from points in New York state and Pennsylvania?

A. I think they did as far up as an arbitrary of fifteen or twenty cents per hundred lbs. would take them.

Q. And they did that for the purpose of getting the business away from the all-rail routes?

A. That I presume was the purpose of it.

Q. Yes; the all-rail routes to the northwest here were the Great Northern, the Northern Pacific and Union Pacific, were they not?

A. Yes, sir.

Q. About the territory around Cincinnati, Mr. Campbell, which way did the stuff move from there, both ways?

A. I think to San Francisco it moved both ways, but most largely through the northern gateways to Portland. I think it moved wholly by the northern gateways.

8086 Q. Now, Mr. Campbell, did traffic come from the east over the Santa Fe to San Francisco and thence up to Portland, over the boats of the O. R. & N.?

A. I don't think there was ever any such arrangement.

Q. None at all?

A. I think not.

Q. You never heard of any; you don't recall ever hearing of any?

A. I do not recall any, no, sir.

Q. Were there at one time boats running from Portland to Sound points?

A. For a short time, yes, sir.

Q. About what year was that, if you remember?

A. It was the year of the Seattle fire, but I cannot tell you what year that was.

Mr. COTTON. Eighty-nine.

WITNESS. 1889.

Q. Only that one year?

A. I think that is all.

Q. At the present time you are the traffic manager, that is the vice president in charge of traffic for the Great Northern?

A. Yes, sir.

Q. You published rates into San Francisco from the Sound points?

A. From Sound points, no, sir.

Q. I mean through rates.

A. Through rates, yes, sir.

Q. Through rates to San Francisco?

A. Yes, sir.

Q. Going by rail over your line and then from Sound points down to San Francisco by boats?

A. Yes, sir.

Q. By what steamers does traffic move, if any?

A. The Pacific Coast Steamship Company.

Q. Does the Northern Pacific publish rates the same way?

A. Yes.

Q. And does that move over the Pacific Coast Steamship Company?

A. Yes.

8087 Q. Do you happen to know whether any traffic moves to Sound points from San Francisco originating on the line of the Union Pacific or its connections or the Sunset Route by way of these boats of the Pacific Coast Steamship Co.?

A. I do not know of any, no, sir.

Q. You do not know whether there is any; do you know whether there is any?

A. I do not know whether there is any.

Q. You do not know that. How long ago was that company organized, if you know?

A. Which company?

Q. The Pacific Coast Steamship Company.

A. Longer ago than I have any knowledge.

Q. That has been running a long time?

A. Yes, sir.

Q. Are you an officer or director in it?

A. No, sir.

Q. Does the O. R. & N. make a junction with your road at Spokane?

A. Yes, sir.

Q. And does business move to Portland from eastern points by way of the Great Northern and Spokane and thence over the O. R. & N.?

A. Yes, sir.

Q. From what portions of the east?

A. Throughout the east generally, east of the Missouri River meridian.

Q. Do you happen to know, Mr. Campbell, whether any business moves from here to points in Utah, such as Salt Lake by way of your

line to Spokane and thence by the O. R. & N., and thence down over the Short Line?

A. Perhaps some lumber and shingles. Maybe a little salmon, but I think nothing beyond that.

Q. Does lumber move to the east by the O. R. & N. from Portland and that region?

A. Yes, sir.

8088 Q. And does it also move to the east by the Sunset Route?

A. I do not know.

Q. Does it move, did it formerly move to the east by way of the Ogden gateway going from Portland to Sacramento that you know of?

A. Yes.

Q. And at the same time moved to the Ogden gateway by the O. R. & N. and the Short Line?

A. Yes.

Q. Thence went on to the east in those days there over the Rio Grande or the Union Pacific?

A. Yes.

Q. Was there a time during your connection with the Short Line, I mean with the O. R. & N., that it was independent of the Union Pacific?

A. Yes.

Q. When was that?

A. The first control secured by the Union Pacific I think was in 1889; I am not very certain of those figures; afterwards the Union Pacific receivership lost control of the O. R. & N. in 1894.

Mr. COTTON. I might suggest, Mr. Campbell, that Mr. O'Neill was appointed receiver on the 4th day of July, 1894.

WITNESS. Yes, that is what I have in mind.

Mr. COTTON. Is that the time when you meant the change took place?

WITNESS. That is the time I understand the segregation was made.

Mr. COTTON. That was on the 4th day of July, 1894.

Mr. SEVERANCE. And when was the control resumed by the Union Pacific?

WITNESS. I have forgotten the year.

Mr. COTTON. The O. R. & N. was organized on August 17,

8089 1896. It had a capital stock of $35,000,000, eleven millions preferred, twenty-four millions of common. The eleven millions preferred under a voting trust, elected ten directors, the twenty-four millions of common stock elected five. The majority of the common stock was owned by the Oregon Short Line, the preferred stock largely owned by the consolidated mortgage bondholders of the old company. The preferred stock, therefore, elected the majority of the directors. The voting trust was dissolved by the guarantee of dividends in 1897 or 1898 at which time the stock then voted equal; that is, for the entire fifteen directors, and afterwards at a date which I

do not know, there was some transfer of stock; I do not know, Mr. Lovett, what are the facts about that.

Mr. LOVETT. The Union Pacific took hold of the Oregon and Southern stock in 1899.

Q. Now during the time that the stock ownership of the O. R. & N. was not in the Union Pacific, or during the time that it was operated by the receiver, Mr. O'Neill, you still maintained your close relations, on eastern business with the Short Line, did you not?

A. Yes.

Q. Necessarily that was your outlet to the east, that and the Great Northern and the Northern Pacific by Spokane?

A. Yes, the two routes, particularly the Great Northern and the Oregon Short Line; the third route was via Wallula and the Northern Pacific.

Q. What is that?

A. The third route, the route of less importance was via Wallula and the Northern Pacific.

Q. Now your agents, after the Union Pacific had acquired
8090 control, in soliciting eastern shipments, solicited them over the O. R. & N., the Short Line and the Union Pacific?

A. Yes, sir.

Q. One thing I forgot to ask about that steamship traffic between Portland and San Francisco. Didn't the steamships pick up at San Francisco commodities that were brought from New York by the way of the Isthmus of Panama?

A. Yes, sir.

Q. Consigned to Portland?

A. Yes.

Q. They were brought up by ship from Panama?

A. Yes.

By Mr. LOVETT.

Q. Mr. Campbell, when did your connections with the O. R. & N. commence?

A. In 1886.

Q. In 1886; and in what capacity?

A. General freight agent.

Q. And you held that position from 1886 until what time?

A. That and traffic manager until 1901, the latter part of 1901.

Q. And then you became——

A. In 1901 or 1902, I guess it was; yes, the latter part of 1902.

Q. Spring of 1902?

Mr. SEVERANCE. Oh, there is one question I did want to ask. I had forgotten; will you pardon me?

Mr. LOVETT. Yes.

By Mr. SEVERANCE.

Q. Mr. Campbell, when was it, if you know, that the steamships between Portland and San Francisco were taken out of the O. R. & N. and put into a separate corporation?

A. Sometime, I think, in 1903.

Q. In 1903?

A. Yes.

8091 Q. That was after control of the Southern Pacific had passed into the Union Pacific hands?

A. Yes, sir.

Q. And who was placed in charge of those boats?

A. Mr. Schwerin.

Q. Of San Francisco?

A. Yes, sir.

Q. And he was also placed in charge of the Portland & Asiatic line, wasn't he?

Q. He was since that time, I think.

Q. Since that time, and he is also in charge of the Pacific Mail?

A. I believe so.

Q. Yes, but he would know better about that than you?

A. Yes, sir.

Q. But you think it was 1903 they were put in a separate corporation?

A. Yes.

Q. Do you know who owns the stock of that corporation, or did at the time it was organized?

A. No, sir.

Q. Since that time the O. R. & N. as a corporation has not run a line of steamers to San Francisco: that has been run by this other corporation?

A. That is without my knowledge.

Q. Well, we will find out later by somebody else. Go on.

By Mr. LOVETT.

Q. So that from 1886 to the spring of 1902 you were the chief officer in charge of the freight traffic of the Oregon Railroad & Navigation Company?

A. Yes, sir.

Q. And in 1902 you became assistant traffic director and had headquarters in Chicago, and held that position for the Union Pacific and the Southern Pacific?

A. Yes, sir.

Q. Were there any other boats operated between San Francisco and Portland at the time the Oregon Railroad & Navigation Company operated that line, Mr. Campbell?

A. There were at varying times, yes, sir, other steamship lines.

8092 Q. When did the O. R. & N. put on that line?

A. Well, that is farther back than I can remember.

Q. It was in operation when you went to the company?

A. Yes, sir.

Q. How many boats were they operating?

A. Three, I think.

Q. Could you call their names?

A. The Elder, Columbia and Oregon.

Q. And boats of what capacity each?

A. I think about fifteen hundred tons. The Columbia may have been eighteen hundred; I have forgotten.

Q. Wasn't their cargo southbound almost entirely products of Oregon and lumber, Mr. Campbell?

A. Almost wholly of farm products.

Q. Did they carry much lumber?

A. Not a great deal; some.

Q. Farm products originating in the Willamette Valley?

A. And along the line of the O. R. & N.

Q. And along the line of the O. R. & N. I think you testified on direct examination that the Southern Pacific line did not seriously attempt to compete for that traffic along the Willamette River?

A. It did not for San Francisco.

Q. For San Francisco. Any competition that it engaged in with the boat line was to Portland?

A. Yes.

Q. That was between points wholly within the state of Oregon, wasn't it?

A. Yes, sir.

Q. The passenger traffic that moved over that line, was the rate an important factor in that competition, or was it a matter of choice and preference on the part of the passenger for the sea?

A. In the winter season it was a question of choice,—well, both winter and summer it was a question of choice with the passenger.

Q. For the sea as against rail line?

8093 A. Yes. In the winter time they preferred the rail line and in the summer time more of them preferred the water.

Q. You understand that the rate was an important factor in that or was it largely a matter of preference for method of travel?

A. I don't think the rate was an important factor. It was a limited factor, to be sure.

Q. Do you know whether there was any substantial change in the course of that business after the Union Pacific acquired the stock of the Southern Pacific in 1901?

A. Which business do you mean?

Q. The business of these boat lines and the Southern Pacific lines to San Francisco.

A. So far as my knowledge goes there was no appreciable change.

Q. Either in the rates or the character of the traffic?

A. No.

Q. Up to the time that your connection with these properties ceased in 1903,—conditions have continued about the same as before?

A. Yes, sir.

Q. Did I understand you to testify that the percentage of Portland business that moved via the Sunset route from the east was about three or four per cent, what was the statement as to that?

A. My recollection is that we usually classed the Sunset and Gulf route as a three to four per cent route.

Q. Now what was the relative distance via that route as against the all-rail lines that handled the bulk of the business?

A. Well, it is as far from New Orleans to Portland as it is from New York; then there was the water haul in addition from New York to New Orleans.

Q. That was as to Portland business from the Atlantic
8094 seaboard, it was virtually an impracticable route, wasn't it?

A. Yes, sir.

Mr. SEVERANCE. What is that, you say it was an impracticable route?

Mr. LOVETT. Virtually from Atlantic seaboard to Portland.

Mr. COTTON. Via Sunset.

Mr. LOVETT. That is what I mean, via the Sunset.

Mr. SEVERANCE. And Mr. Campbell said yes to that?

Mr. LOVETT. Yes, of course.

Mr. SEVERANCE. All right.

Q. Now, with reference to these steamship lines, Mr. Campbell, what was the first line that operated from Portland to Asiatic ports in connection with the O. R. & N., or that was promoted or established at the instance of the O. R. & N.?

A. Samuel Samuels & Co. put on a line—no, Frank Upton put on a line, oh, I guess as far back as 1885.

Q. Did the O. R. & N. Co. own that line?

A. No.

Q. Will you please state, beginning with the first line, just what lines were established and what were the reasons of the line and what arrangements existed between such lines and the O. R. & N. Co.

A. Well, Frank Upton first started a line, I think in 1885, and following him was Samuel Samuels & Co.

Q. When did they commence?

A. Probably in 1887 or '88. I would not undertake to be at all definite on these dates because I don't remember them.

Q. Well, approximately. Why did Frank Upton quit, do you know?

A. Because there was no money in the business.

Q. Then the Samuel Samuels line?

A. They quit for the same reason; and Dodwell following
8095 them quit for the same reason; and after that the O. R. & N. organized its own company.

Q. Meaning the Portland & Asiatic?

A. The Portland & Asiatic.

Q. What had been the result of the operations of the Portland & Asiatic up to the time your connection with it ceased, had it been profitable or otherwise?

A. It was unprofitable.

Q. Lost money every year, didn't they?

A. Yes.

Q. Why were those lines established?

A. Solely for the purpose of affording an outlet at Portland for the products, agricultural products, produced along the line of the O. R. & N. as against the competition of the Northern Pacific, bringing those products into Puget Sound where they could find an outlet.

Q. What was the principal product?

A. Wheat.

Q. Wheat.

A. Yes, wheat and wheat product,—flour.

Q. That flour moves largely to Asiatic points?

A. Yes, sir.

Q. Now, if those lines had not been established as I understand, that wheat originating,—wheat and other farm products originating on the rail lines of the O. R. & N. Co., would have gone very largely to Puget Sound and sought an outlet that way?

A. Yes, sir.

Q. Reaching the Sound by the Northern Pacific lines?

A. Yes, sir.

Q. Then the O. R. & N. Co. felt that it could recoup itself somewhat for the loss of the steamship lines by holding this traffic to its rail lines; is that the idea?

A. That was the principle on which they acted.

Q. What was the arrangement between the O. R. & N. and the Dodwell line about which Mr. Severance spoke?

A. An arrangement for interchange of traffic on a division of the through rate.

Q. The O. R. & N. did not charter the boats, did it?

A. No, sir.

8096 Q. And did not own the boats?

A. No, sir.

Q. And had no interest in the profits of the boats?

A. No, sir.

Q. Did it make any guarantee against losses?

A. No, sir.

Q. In other words, it was a connecting rail and steamship line under separate management but with arrangements for through rates and interchange of business?

A. Yes, sir.

Q. And that arrangement continued for about three years?

A. About three years, yes, sir.

Q. Was the arrangement with the Samuel Samuels line of substantially the same character?

A. It was, yes.

Q. And the Upton line substantially the same?

A. Substantially the same.

Q. And each of these lines after trying the business for a while, they quit because they could not make any money?

A. That is the reason, yes, sir.

Q. Was the Portland & Asiatic Company organized by the O. R. & N. because it could not arrange with others satisfactorily to maintain a line there?

A. That was the reason.

Q. The O. R. & N. made a guarantee for a time to the Samuel Samuels line, didn't it, particularly on flour?

A. Yes, sir.

Q. Well, did it lose anything by that guarantee, or did it have to pay anything on account of it?

A. It had to pay the amount of the guarantee.

Q. How often were the sailings of these ships, Mr. Campbell, if you recall?

A. Monthly.

Q. Monthly?

A. Yes, sir.

Q. Wasn't it impossible for them sailing only monthly to compete with Asiatic ports, particularly from points east, with the lines via San Francisco, the Pacific and O. & O.?

8097 A. They handled practically no business from the east.

Q. The demands of the flour traffic had the first call on the tonnage of the vessels, didn't it?

A. Yes, sir.

Q. And then handled practically no tonnage from east of the Missouri River?

A. Practically none, very little.

Q. Now for the return trip. I suppose what we would call the eastbound trips of the line of steamers, they handled some, picked up some business in Asiatic ports?

A. They did.

Q. For the various ports of the United States?

A. Yes.

Q. The volume of that was very small wasn't it, Mr. Campbell?

A. I think it would not exceed an average of a thousand tons a month.

Q. Yes. The ships sometimes came in ballast, or do you know as to that?

A. Well, I cannot say as to that.

Q. What was the relative amount of the westbound business of those ships, as compared with the eastbound, approximately; of course I know you cannot be exact?

A. Well, about ninety per cent. westbound and ten per cent. eastbound, I should say.

Q. I believe you testified in answer to questions by Mr. Severance that the Great Northern Railway Company has in rates via Portland—was it Puget Sound? What is the name of those boat lines?

Mr. SEVERANCE. The Pacific Coast Steamship Company.

Q. To San Francisco via the Pacific Coast Steamship lines?

A. Yes, sir.

Q. Does any business really move under those rates, Mr. Campbell?

A. Substantially none, that is, far eastern business.

Q. What do you mean by far eastern?

8098 A. Business east of St. Paul and Minneapolis. There is business moves west of these points, eastern Washington and Montana.

Q. But other points east of the Missouri River?

A. Substantially none.

Q. How long have these rates been in?

A. I do not know.

Q. They were there when you were there?

A. Yes.

Q. You have in similar rates via the O. R. & N. and steamers down by way of Portland, haven't you, to San Francisco?

A. I think so; we did have.

Q. Are those rates in yet?

A. I think they are.

Q. What is the result via that line, Mr. Campbell?

A. Nothing, our eastern business,—I don't know that we handled even any Montana business that way. I guess they are practically—I guess the business is practically *nil* via that route.

Q. I understood Mr. Severance to ask you whether lumber formerly moved from Portland via the Southern Pacific to Ogden and points east of Ogden; or did you mean to testify that there was lumber moved from Portland via that line?

A. Yes, sir.

Q. To what points east of Ogden?

A. Chiefly to points reached on and by the Rio Grande road and some of the Union Pacific. My testimony was based on what I knew to be the situation say prior to two years ago. I do not know whether it moves that way to-day or not.

Q. And that business originated at Portland proper, not at points south of Portland?

A. Some of it originated at Portland proper.

Q. What was the amount of that business; was it considerable or insignificant, Mr. Campbell?

8099 A. Well, I think it was moderate; I do not remember just what the volume was; I do not think it was heavy.

Q. Wasn't there an abundant supply of lumber on the Southern Pacific lines south of Portland?

A. Yes.

Q. To move that way it had to be carried over two ranges of mountains, didn't it?

A. Four of them.

Q. Four. I am not very familiar with the geography of that section. You cannot give any definite idea, Mr. Campbell, as to the volume of that traffic from Portland proper?

A. No, I do not think it was excessively larger, I think it was moderate.

Q. Mr. Campbell, of course you are familiar with the location of the Union Pacific with reference to the Central Pacific and Southern Pacific lines?

A. Yes, sir.

Q. You testified I believe, that while you were with Mr. Stubbs you had jurisdiction over both those lines, of course, as his assistant?

A. Yes, sir.

Q. Assuming that the Union Pacific lines and the Southern Pacific were entirely separate with reference to ownership, and that the Oregon Short Line and the O. R. & N. Co. are a part of the Union Pacific, treating that as one line—I believe at one time prior to the receivership that the Union Pacific interests, those lines were all operated by the Union Pacific under one common control, were they not?

A. Yes.

Q. Do you know whether that line made up of the Union Pacific and the Oregon Short Line and the O. R. & N. to Portland
8100 and thence via boats to San Francisco, ever competed at any time prior to 1901?

A. They did not.

Q. With the Union Pacific?

Mr. SEVERANCE. Well, wait a minute: let him ask the question.

Judge LOVETT. Competed for business with the Southern Pacific for California points?

WITNESS. It did not.

Q. Why, Mr. Campbell?

A. It was an impracticable route at even rates and the Union Pacific, to open such a route would stand to lose more from diversion of business than the Southern Pacific or Central Pacific could make to its competitors, than it would gain by opening the Portland route.

Q. If you were in charge of the traffic of the Union Pacific and the Oregon Short Line and the O. R. & N., and were working in the interest of these lines alone without any regard to the interest of the Southern Pacific lines, how would you work that business?

A. If I was in charge of all?

Q. If you were in charge of the traffic of the Union Pacific and the O. R. & N. and Oregon Short Line, and without any interest at all in the Southern Pacific Company?

A. I would work it by way of Ogden.

Q. You would consider it to the interest of your lines to manage it that way, wouldn't you?

A. Yes.

Q. Wouldn't it be practically suicidal from the railroad standpoint to try to work that business by way of Portland?

A. I should think so, yes, sir.

Q. It has always been worked by way of Ogden, ever since
8101 you have known those lines, hasn't it?

A. Yes.

Judge LOVETT. If the Commissioner please, I would like permission for Mr. Cotton to ask Mr. Campbell a few questions with reference to the local situation.

By Mr. COTTON:

Q. Referring to these steamboats on the Willamette River, Mr. Campbell, that operated above Salem, tell us about the size of the skimming dish that we used to operate up there.

A. I think it had a capacity of 75 tons.

Q. And about how often did she run?

Mr. SEVERANCE. Pardon me, what was the question?

(Question read.)

Mr. SEVERANCE. Skimming dish?

Mr. COTTON. Yes.

Mr. SEVERANCE. Have holes in the bottom?

Mr. COTTON. Well, most of the time. She had holes in the bottom most of the time.

Mr. SEVERANCE. It ought to have had a rest? It must have been a dangerous craft.

Mr. COTTON. About how often did she run, Mr. Campbell?

WITNESS. I think about once a week.

Q. What was her draft?

A. Six inches light.

Q. What was the occasion of this light draft?

A. Shallow water.

Q. What is the character of the river as to snags?

A. It is full of them.

Q. And how often did she sink?

A. You have got me; I cannot tell you. I know she wrecked; I was on her once when she got wrecked.

8102 Mr. SEVERANCE. In six inches of water?

WITNESS. No, she drew six inches.

Mr. SEVERANCE. She must have had eight inches of water then.

Mr. COTTON. Well, that is about what they had. That is the object of my question, to show the extent of this competition. Did she always have water enough to operate above Salem during the entire year?

WITNESS. No.

Q. For about how long each year on an average would you say, since you knew her, she was compelled to tie up entirely?

A. Well, above Salem, I should say she tied up about nine months of the year above Independence.

Q. The principal trade that she engaged in, Mr. Campbell, was simply in coming up to little landings and picking up stuff that was delivered to her almost any place along the river, wasn't it?

A. Yes.

Q. There were other boats when you left, and are still engaged in that same business?

A. Yes, sir.

Q. Our little boat, what became of her, if you know?

A. She was wrecked, I understand.

Q. And she has not been operated for how many years?

A. I do not know.

Q. Do you remember her name?

A. "Gypsy", wasn't it?

Q. Yes.

A. Yes.

Q. How many boats did we operate below Salem?

A. I have forgotten, but I think three.

Q. And speaking about competing for passengers, how far
8103 is Salem from Portland?

A. Fifty miles by rail, and about seventy-five by river.

Q. How long did it take these boats to go down and make all the landings, leaving Salem, what time did they leave Salem in the morning, about?

A. It took them all day.

Q. They would leave about six and get in about four-thirty in the afternoon, didn't they?

A. Sometimes, yes; generally, yes.

Q. And fifty miles by rail. They did do more or less business from Oregon City, didn't they?

A. Yes.

Q. And from Salem?

A. Yes.

Q. That was the business of the Portland Flouring Mills and the Oregon City Paper Company, wasn't it?

A. You are talking about freight business, now?

Q. Yes.

A. Yes.

Q. And that was from Oregon City for the Paper Company, and Salem for the flour mills?

A. Yes, sir.

Q. The Flouring mills ran elevators along our line, didn't they, the Railway-Navigation line?

A. Warehouses, yes, sir.

Q. Yes, warehouses; and was engaged with the Navigation-Railway line in doing other business?

A. Yes, sir.

Q. These rates in the Willamette Valley were established how many years ago, that is, these boat rates?

A. Longer ago than I know anything about.

Q. They have been practically permanently maintained during the whole entire period that you know of, haven't they?

A. Yes.

Q. Have there been any breakwaters between the railroad and the Willamette River boats to any extent?

A. I think not.

8104 Q. By "longer ago than you can remember," is that prior to 1886 or when?

A. Prior to 1886.

Q. In fixing up the subsidy with the Samuel Samuels line, was anybody else a party to the subsidy contract?

A. Yes.

Q. Whom?

A. The Portland Flouring Mills.

Q. They were interested in the line for what reason?

A. For an outlet for their flour.

Q. Did they own mills on the lines of the O. R. & N.?

A. Yes, sir.

Q. State whether it is or is not a fact that the Portland Oriental line was established mainly for the accommodation of that particular mill?

A. Practically altogether on that account.

Q. It had no other reason really for its existence other than that?

A. No.

Q. That is all.

By Mr. SEVERANCE:

Q. Mr. Campbell, where is this mill located concerning which Mr. Cotton has been asking you?

A. The largest mill is at East Portland.

Q. Have they a series of mills along the line?

A. They have mills at Spokane and Dayton; those were the mills they owned when I was familiar with the situation.

Q. And does their flour also move down the coast in the O. R. & N. ships, or did it move to California points?

A. Yes.

Q. To points below, in South America?

A. Some transshipped at San Francisco; yes, sir.

Q. And go also to New York?

A. Why not that I know of.

8105 Q. Or any points in the Atlantic seaboard?

A. I do not think so.

Q. Their business was all on the Pacific side, was it?

A. Yes, I think so.

Q. Did all their flour go by water?

A. Yes.

Q. None move by rail?

A. No, none that I ever knew of.

Q. Now you spoke of this skimmer, or some boat or other picking up paper in the Willamette Valley. Where did it get the paper?

A. No; I don't think the particular boat that Mr. Cotton questioned me about handled any paper.

Q. Oh, it did not?

A. No, sir.

Mr. COTTON. That was a boat above Salem.

Mr. SEVERANCE. That was the one that was frequently wrecked?

Mr. COTTON. Yes, that was above Salem; the ones below Salem at Oregon City picked up paper; they picked up paper at Oregon City.

Q. By the way, I was just asking Judge Lovett whether you remember in those days when that boat was wrecked, if there were any wrecks along the Southern Pacific in that region. Do you remember any such thing on land or rails?

A. I guess they have had some.

Q. Now, where was this paper mill?

A. At Oregon City.

Q. How far is that from Portland?

A. 16 miles.

Q. Now, where did that paper move to?

A. San Francisco.

Q. By boat?

A. Yes.

Q. Did that all go by boat or sometimes by rail?

A. I think it all went by boat.

Q. Are you sure?

A. I feel confident that it did.

Q. That all came into Portland and went down the coast?

8106 A. Yes, sir.

Q. On your boats?

A. Yes, sir.

Q. And the Southern Pacific road runs through Oregon City?

A. Yes, sir.

Q. What else did you say was picked up out there, flour or lumber or what?

A. On the Columbia River?

Q. I mean in answer to Mr. Cotton you spoke of something besides paper.

A. Flour at Oregon City.

Q. Where did that move to?

A. That moved to Portland locally and to San Francisco.

Q. And to San Francisco?

A. Yes, sir.

Q. Did any flour ever move to San Francisco by rail?

A. None that I ever knew of.

Q. You never knew of any flour going by rail?

A. No, sir.

Q. It always went by your boats?

A. Yes, sir.

Q. Now, Mr. Campbell, you spoke of lumber, I think, being brought in on the Willamette boats. In answer to Judge Lovett you said there was some lumber brought in?

Judge LOVETT. I don't think he did.

Q. Didn't you?

A. I don't think so; I don't remember it.

Q. I understood you to say that lumber was brought in by the Willamette boats?

A. No, I don't think so.

Q. There was no lumber brought in that you know of?

A. A little hardwood lumber but not a large volume of it.

Q. Was any wool brought in on these boats?

A. A small amount.

Q. A small amount of wool?

A. Yes, sir.

8107 Q. And did that wool move east over the O. R. & N.?

A. I think it did ultimately.

Q. Did wool also move east over the Southern Pacific either via Sacramento or Sunset route?

A. Yes, from Willamette Valley points.

Q. Yes, Willamette Valley points, that is what I mean. The great wool markets in the country were in Boston and Philadelphia, were they not?

A. Yes.

Q. And wool from that region moved both ways, by the O. R. & N. and by the Southern Pacific?

A. Yes.

Q. Now, Judge Lovett was asking you if the matter of travel between San Francisco and Portland was not a matter of individual choice. That is, as to whether passengers would go by boat or by rail. Both lines were soliciting passengers, were they not?

A. Yes, sir.

Q. And got all the business they could?

A. Yes.

Q. Did any farm products come into Portland by the Southern Pacific from this Willamette Valley country other than wool?

A. Yes.

Q. What?

A. Grain of several kinds, potatoes.

Q. Yes. Well, now, did those products that came in by the Southern Pacific proceed on to San Francisco by boats other than the O. R. & N. boats? You said there were other boats running down there?

A. I think that some of them did, yes. The other boats participated in the general traffic from Portland?

Q. Who ran those other boats, do you remember?

A. The California & Oregon Steamship Company, I think was the name.

Q. Where was their headquarters, in San Francisco?

8108 A. In San Francisco.

Q. How frequent a service did you have with the O. R. & N. boats, a three-day service?

A. Three days, I think.

Mr. LOVETT. You mean three sailings a week or three trips?

Mr. SEVERANCE. You mean every three days.

WITNESS. I think it was every three days.

Q. Now, Mr. Campbell, you by answering directly "Yes," testified in answer to Judge Lovett that the Sunset Route was impracticable for Portland business. He asked you that direct question.

Mr. LOVETT. From the Atlantic seaboard.

Q. From the Atlantic seaboard, yes. He asked you that question, and you said yes. Now it is a fact as you have stated here, isn't it, that business did move that way?

A. Yes.

Q. And what you mean by impracticable is that as a rule business would go through quicker all-rail direct than it would by the Morgan steamers to Texas and thence by rails?

A. That is what I meant.

Q. That is what you meant?

A. Yes, sir.

Q. And that is all you meant, is it not?

A. Yes.

Q. Judge Lovett also examined you with reference to possible suicide of the Union Pacific Railroad, and asked you——

Mr. LOVETT (Interrupting). Not possible; impossible.

Q. Impossible suicide, yes; as to whether it would have been suicidal for the Union Pacific to have diverted its business by way of Portland. Now, isn't it also a fact, Mr. Campbell, that the Southern Pacific line from Ogden to the coast was very largely dependent on the Union Pacific for its business?

A. No, sir, I don't think so.

8109 Q. Now, let's see: the Union Pacific runs to Omaha. It has traffic connections with the Northwestern, Milwaukee & St. Paul and various other lines that center there at Council Bluffs, and Omaha, hasn't it?

A. Yes.

Q. And in that way controls a large amount of traffic, doesn't it?

A. Yes.

Q. And that traffic is quite essential, isn't it, to the Southern Pacific line from Ogden to San Francisco?

A. Yes.

Q. Yes. Therefore, the Southern Pacific road could not afford, unless it wanted to suicide, to demand unfair divisions from the Union Pacific on that through business so long as the Union Pacific had the possibility of carrying the stuff by Portland. Isn't that true, about?

A. Well, I think the Union Pacific was as dependent upon the Southern Pacific as the Southern Pacific could have possibly been upon the Union Pacific.

Q. That is not my question, sir. I asked you whether or not as a matter of fact so long as the Union Pacific had a line of its own to

tidewater, or did not have such an advantage, that it could compel the Southern Pacific to deal fairly with it?

A. No, I don't think so.

Q. You don't think so?

A. No, sir.

Q. Well, why not?

A. Well, because it is a physical impossibility for the Union Pacific to control anything like the volume of business over a route through Portland to San Francisco that the Southern Pacific could take away from it by way of Ogden.

Q. So that you think that the position of this route to the coast was of no advantage whatever to the Union Pacific in the way of securing fair treatment from the Southern Pacific; that is your opinion, is it?

A. I so regard it, yes.

8110 Q. Yes; and it was of no consequence whatever?

A. No, sir.

Q. Not as an equalizer of divisions or anything?

A. Not at all.

Q. Not at all. And that would be your opinion also, I suppose, with reference to the Sunset route from New York to the coast—that being a roundabout way to San Francisco, partly by water, as it is, you would have the same view as to that, wouldn't you, that the Southern Pacific by reason of the position of that line would have no dominating influence that could compel a fair division of the lines east of Ogden; it is the same principle, is it not?

A. Well, I did not get it clearly in my mind to say whether it is or not.

Q. Here is the point: You say that that roundabout line by Portland could not dominate the situation so that the Southern Pacific could—the Union Pacific could demand fair division with the Southern Pacific; now the Sunset route then, being a roundabout line, being half water and half rail, was no club in the hands of Mr. Stubbs by which he could demand fair treatment with the lines east of Ogden, was it?

A. I do not know whether it was so used or not.

Q. I am not asking you whether it was.

A. I do not know whether it was or not.

Q. Whether it could be used; that is the point. As a traffic man would you say that it could be so used by an able, energetic man like Mr. Stubbs?

A. I think the Southern Pacific Sunset Route is a great deal stronger line and in addition it has to be a stronger line in taking freight from the seaboard to San Francisco than it would be possible for the line as formerly described through Portland, because

8111 the Southern Pacific owns the entire line through, and it is possible for it to give better service and make better time on the through eastern competitive business than it would be for the Union Pacific to give by the way of Portland.

Q. Well now, let's see about that. The distance is not as great, is it, to San Francisco by way of Portland as it is from New York,—I mean from New York the distance is not as great all rail to Portland and thence by water to San Francisco as it is by the Sunset Route, is it?

A. No.

Q. What is the mileage from New Orleans.—Well, we will say Galveston to San Francisco, do you know, by the Sunset?

A. I think it is two thousand miles, something like that.

Q. About the same as from Chicago to Portland?

A. About the same.

Q. And do you know the distance from Galveston to New York by sea?

A. No, I don't.

Q. You know it is a long ways, don't you?

A. I do not know.

Q. You know, as a matter of fact, my statement is correct, do you not? That it is farther from New York City by the Sunset Route to San Francisco than it is all rail from Chicago via Union Pacific to Portland or down?

A. I think it is, yes.

Q. And the sea trip is shorter from Portland by water, is it not?

A. Yes.

Q. And therefore you think the advantage lies with the Sunset by reason of the fact that it owns its own rails all the way from Galveston to San Francisco?

A. And the steamship lines through the seaboard.

Q. Certainly; but the Union Pacific owns its steamship
8112 lines. I was getting at the point of destination in your mind, and that is the fact, that you think that the connections of the Union Pacific east would be slow in transporting freight and making deliveries?

A. I do.

Q. I have forgotten whether your experience as a general freight agent goes back to 1887, does it?

A. No, it does not; 1886 or 1887; 1886 I think I testified to.

Q. Well, did you attend the transcontinental pool meetings in the days when the business was pooled before the Interstate Commerce law made that unlawful?

A. No, sir.

Q. How is that?

A. I never did.

Q. You never attended that?

A. No, sir.

Q. Were you at that time familiar with those pools?

A. I was not.

Q. You were not?

A. No, sir.

Q. That was perhaps before you became general freight agent?
A. Yes.
Mr. SEVERANCE. I think that is all.

By Mr. LOVETT:

Q. Mr. Campbell, isn't one of the great advantages of the Sunset over the Sound——
Comr. LANE. A little louder, please.
Q. I ask whether one of the great advantages of the Southern Pacific Sunset Route is not in the fact that with its own steamers in New York it can gather the cargo and take it to New Orleans or Galveston in solid cargo lots and load it into train loads, whereas the all-rail route like this, for instance, the Great Northern has to depend on its connections—delivering it in carload lots, isn't that very important?
A. Yes.
8113 Q. What is the relative distance by all rail line from New York and the Great Northern to Puget Sound and the Pacific Coast Steamship Company boats to San Francisco as compared with the Sunset route of the Southern Pacific approximately?
A. I should say that—I have forgotten the length of the water line from New York to New Orleans.
Mr. LOVETT. What is it?
Mr. DUNNE. 2200 miles to Galveston, 1800 miles to New Orleans.
Q. About 4500 from New York.
A. Well, it is about 3000 miles all rail, 3900 miles all rail and the water from here down.
Q. In other words, the all-rail route made up by the Great Northern and the Northern Pacific, for instance, and these other lines to Puget Sound, is shorter than the Sunset?
A. A little shorter, yes.
Q. And still I believe that you testified that you are not able to move any business of consequence by this Puget Sound line?
A. We are not.
Q. Mr. Severance asked you with reference to the power of the Union Pacific by reason of its line via Portland and the boat line to San Francisco, to deal with the Southern Pacific in the matter of divisions at Ogden, whether that power could not be used to coerce the Southern Pacific Company in according larger division than it might accord if it did not have that club. Suppose the Union Pacific and the Southern Pacific were entirely separate and distinct in their ownership and the Union Pacific should attempt to use this
8114 route via Portland to San Francisco as a club against the Southern Pacific, as Mr. Severance suggests, and suppose that you were acting for the Southern Pacific with the Rio Grande connection at Ogden and the east, don't you think that you could hold your own for the Southern Pacific as against the Union Pacific in a contest of that sort?

A. I do.

Q. Which do you think would fare the worst?

A. The Union Pacific.

Q. At Ogden the Union Pacific's only connection to California outside of the San Pedro road for the time being is the Southern Pacific, isn't it?

A. Yes.

Q. Whereas the Southern Pacific for its traffic east may turn it over either to the Union Pacific or the Rio Grande, may it not?

A. Yes.

Q. The Rio Grande in turn connects with the Burlington, the Rock Island, the Missouri Pacific and Santa Fe, doesn't it, in the east?

A. It does.

Q. That is perfectly practicable and is in fact a competitor of the Union Pacific east of Ogden, isn't it?

A. Yes, sir.

By Mr. SEVERANCE:

Q. Just one other question. Speaking of this Sunset Route, you have described in answer to Judge Lovett the advantages of the Sunset route?

Mr. LOVETT. One.

Q. One of the advantages of the Sunset Route in gathering business in New York in these ships and taking it out in trainloads, and so forth. That does give it a strong advantageous position as a
8115 competitor of the other transcontinental lines, doesn't it?

A. Yes, sir.

Q. From the coast. Now, when you speak of the Southern Pacific as a three or four or five per cent., when you said three to five,—the other time you said three to four per cent. line,—from Portland, as to what class of traffic do you refer, the entire traffic going into Portland over the Southern Pacific or as compared with the O. R. & N., or what?

A. Eastern competitive traffic.

Q. Well, eastern competitive traffic. Didn't they do more than three or four per cent of the seaboard traffic?

A. I don't think so into Portland.

Q. How is that?

A. Into Portland, I don't think so.

Q. That is what I am speaking about, into Portland.

A. Well, I do not know about that.

Q. Taking the seaboard traffic alone for a moment?

A. I do not know what percentage of the seaboard traffic: the percentage of what we call competitive traffic, that is traffic originating east of the Missouri River on down on to the seaboard?

Q. Yes.

A. Of all of the competitive traffic into Portland, I would regard the Southern Pacific as not exceeding a three to five per cent. line.

Now what percentage of the seaboard business they handle, I am not prepared to state.

Q. And what percentage of that competitive business came over the Union Pacific and the O. R. & N.?

A. Well, at one time it was as high as 85 per cent.

Q. Well, that would not be ordinary, would it, the Northern Pacific do more business than that, don't they? They do more
8116 than ten per cent of the Portland business, don't they?

A. They did not at the time I speak of.

Q. Well, I know, but take ordinary conditions.

A. I suppose that the Union Pacific takes into Portland now probably forty per cent.

Q. Well, take it in 1900; put it at that time.

A. Well, I should say about fifty per cent.

Q. About fifty per cent?

A. Yes, sir.

Q. And the Southern Pacific how much?

A. I think from three to five, say five per cent.

Q. And the Northern Pacific the balance, or the Great Northern?

A. No, the Great Northern had a little of it.

Q. Well, and did the Great Northern get it; they got it over the O. R. & N.?

A. Over the O. R. & N., yes.

Q. By fifty per cent, you mean the Union Pacific business?

A. Yes, I mean the Union Pacific had about fifty per cent. of the whole; the balance of it was distributed with the other lines.

Q. That is, distributed between the Great Northern——

A. The Great Northern, the Northern Pacific and Sunset.

Q. And did the Canadian Pacific share at all in that business?

A. No, I think not.

Q. Did they run boats from Portland to Vancouver?

A. No.

Q. So that the balance of the fifty per cent. was distributed among these other lines?

A. Yes.

Q. And what percentage did the Great Northern get?

A. About fifteen or sixteen.

Q. Fifteen or sixteen; and how much did the Northern Pa-
8117 cific get?

A. Somewhere around 28 or 30.

Q. And that is the division as best you can estimate of all the competitive business?

A. Yes, sir.

Q. But as to Atlantic seaboard business the Southern Pacific had a larger percentage of the Portland business, didn't it, than you stated, by reason of these splendid facilities that Judge Lovett has dilated on, at New York, Galveston and so forth, the speed at which they could bring their stuff through?

A. I think it might be safe to say that the Sunset handled of the strictly Atlantic seaboard business, probably 20 to 25 per cent.

Q. Yes; it was rather a formidable competitor of the other lines for that business then, wasn't it?

A. No, there is very little of that business.

Q. Well, I say it was a practicable competitor for that business, whatever it amounted to, whatever the extent of that business was?

A. I would not so regard it, no.

Q. You do not think a line that handles 25 per cent. of the traffic of a certain line is a formidable competitor of that traffic, is that the idea?

A. No, I do not think it is where it has the entire route.

Q. You mean that it is not well managed then, that it ought to get more. Is that what you mean?

A. I think it is physically an inferior route to the others. It is a mere guess on my part to say that they get 25 per cent of the seaboard business. I don't know as a fact.

Q. Now, Mr. Campbell, in that seaboard business, is there or not included a large amount of manufactured articles of heavy character manufactured in the iron foundries and steel mills of
8118 the east?

A. There is a large amount of structural steel and steel product shipped from the east to the coast.

Q. And by way of the Sunset, isn't it?

A. I do not know.

Q. Well, this is seaboard business, isn't it?

A. No, that isn't what we class seaboard business, that is interior not seaboard business.

Q. I don't mean the business out of Pittsburg, but I mean the business in the seaboard zone which is a strip of country a little east of Buffalo and Pittsburg.

A. I do not know whether any such material moves by the Sunset or not.

Q. You do not know of that?

A. No, sir.

Q. But in the way of general merchandise of all descriptions; high-grade merchandise coming from the seaboard you think perhaps twenty or twenty-five per cent comes around by the Sunset, do you?

A. Well, it would be a mere guess on my part. I have not the remotest idea how much does come there.

Q. Well, you must have seen it coming in when you were there for years in Portland?

A. I never figured it up any further than to carry in my mind the fact that the Sunset-Gulf was regarded as a three to five per-centage competitive line in Portland; how much seaboard business it handles I did not know because I never segregated it, and I cannot tell.

Witness excused.

8119 Mr. LOOMIS. I offer in evidence a tabulated statement showing additional main tracks of the Atchison, Topeka & Santa Fe Railway Company, taken from page 46 of the annual report of that company, for the fiscal year ending June 30, 1909.

The statement was marked Defendants' Exhibit 243, and is as follows:

DEFENDANTS' EXHIBIT 243

Additional main tracks

	Operated.	Owned.
Second main track:		
Dearborn Station to Stewart Avenue	1.43	.....
Stewart Ave. to Crawford Avenue	5.00	5.00
Crawford Ave. to Plaines, Ill	34.79	34.79
Plaines, Ill. to Pequot, Ill	15.79	.....
Pequot, Ill. to Holton, Ill	71.22	71.22
Chillicothe, Ill. to Edelstein, Ill	7.91	7.91
Knox, Ill. to Surrey, Ill	11.21	11.21
Smithshire, Ill. to East Fort Madison, Ill	29.67	29.67
Fort Madison, Ia. to Wyaconda, Mo	39.88	39.88
Bucklin, Mo. to Rothville, Mo	13.09	13.09
Carrollton, Mo. to Carrollton Jct., Mo	2.25	2.25
Carrollton Jct. Mo. to Hardin, Mo	16.17	.68
Hardin, Mo. to Camden Junction, Mo	13.44	13.44
Sibley, Mo. to Congo, Mo	14.98	14.98
Big Blue Junction, Mo., to Chicago Junction, Mo	6.69	.09
Kansas City, Mo. to Braddock, Kans	173.50	173.50
Walton, Kans. To Mission, Kans	12.92	12.92
Trinidad, Colo., to Raton, N. M	22.86	22.86
Total Second Main Track	492.80	453.49
8120 Third main track:		
Hardin, Mo. to Camden Junction, Mo	12.89	.56
Kansas City, Mo. to Turner, Kans	5.90	5.90
Total Third Main Track	18.79	6.46
Fourth main track:		
Kansas City, Mo. to Turner, Kans	5.92	5.92
Total Additional Main Tracks	517.51	465.87
Total Mileage Yard Tracks and Sidings	2,984.37	.....

Mileage upon which General Mortgage is a direct lien	6,693.14
Mileage represented by stocks and Bonds pledged under General Mortgage	1,645.30
Total Mileage subject to General Mortgage	8,338.44

8121 Mr. LOOMIS. I offer in evidence a tabulated statement showing second track of the Northern Pacific Railway Company and controlled lines as of June 30, 1909, contained on pages 29 and 30 of the 13th Annual Report of the Northern Pacific Railway Company, for the fiscal year ending June 30, 1909.

The statement was marked Defendants' Exhibit 244, and is as follows:

DEFENDANTS' EXHIBIT 244

Mileage of Northern Pacific Railway Company and controlled lines, June 30, 1909.

Description	Second Track
WISCONSIN	
Ashland to Wisconsin and Minnesota State Line	3.90
Central Avenue to Wisconsin and Minnesota State Line (center St. Louis Bay bridge)	5.40
Bay Front Line in Superior	1.05
Walbridge Line	.....
Wisconsin Central Railway in Ashland (*leased*)	.....
Washburn Branch	.....
West Superior Branch	.....
Grantsburg Branch	.....
Spurs in Superior (*joint*)	.....
Lake Superior Terminal & Transfer Ry. (*joint*)	.....
Total	10.35
MINNESOTA.	
Wisconsin and Minnesota State Line to Minnesota and North Dakota State Line	[a] 123.50
Rice's Point to Minnesota and Wisconsin State Line (center of St. Louis Bay bridge)	1.55
Walbridge Line	.....
St. Paul to Staples	10.46
Little Falls to Brainerd	.....
Duluth Short Line	16.86
St. Paul Union Depot Company (*joint*)	.....
Minneapolis & St. Louis R. R. in Minneapolis (*leased*)	1.38
Great Northern Ry., St. Paul to Minneapolis (*leased*)	7.72
Minneapolis Union Railway in Minneapolis (*leased*)	2.52
Line "A," General Office Building to Mississippi Street, St. Paul	1.53
Line "A," St. Anthony Park to 20th Avenue South, Minneapolis	2.57
Line from Terminal Yard, Minneapolis, to Northtown Junction, Minneapolis	3.37
Duluth Union Depot Company (*owned*)	.....
Minneapolis-White Bear Branch	.....
Fond du Lac Branch	.....
West Superior Branch	.....
Cloquet Branch	.....
Grantsburg Branch	.....
Miller Branch	.....
Taylor's Falls Branch	.....
8123 Stillwater Branch	.....
Little Falls & Dakota Branch	.....
Fergus Falls Branch	.....
Red River & Winnipeg Branch	.....
Red Lake Falls Branch	.....
Keystone Branch	.....
Spurs in Duluth (*joint*)	.....
Minnesota Transfer Ry. Co. (*joint, one-tenth interest*)	.....
Spurs in Minneapolis (*joint*)	.....
Spurs in Stillwater	.....
Spurs in Scanlon and Cloquet (*joint*)	.....
Great Northern Railway, Northtown Junction to St. Cloud (*leased*)	61.65

[a] Includes 20.37 miles third track.

Mileage of Northern Pacific Railway Company and controlled lines, June 30, 1909—Continued.

Description.	Second Track
MINNESOTA—continued.	
Minnesota & International Railway (*controlled*)	
Big Forks & International Falls Railway (*controlled*)	
Total	233.11
NORTH DAKOTA.	
Minnesota and North Dakota State Line to North Dakota and Montana State Line	46.56
Red River & Winnipeg Branch	
Fergus Falls Branch	
Fairview Branch	
Fargo & Southwestern Branch	
Casselton Branch	
8124 Cooperstown Branch	
James River Branch	
Oakes Branch	
Devil's Lake Branch	
Sykeston Branch	
Oberon Branch	
Linton Branch	
Joint Tracks in Oakes (*with C. & N.-W. Ry.*)	
Joint tracks in Linton (*with C. M. & St. P. Ry.*)	
Total	46.56
MANITOBA.	
All lines leased to Province of Manitoba:	
Red River & Winnipeg Branch	
Hope Farm Branch	
Brandon Branch	
Fair Ground Branch	
Souris River Branch	
Portage la Prairie Branch	
Lake Branch	
Winnipeg Transfer Railway Co., Limited	
Total	

8125 Mr. LOOMIS. I also offer in evidence, subject to the same stipulation which controlled the admission of photographs, the map attached to the annual report of the Northern Pacific Railroad Company just referred to. Is there any objection, Mr. Severance?

Mr. SEVERANCE. No.

The map was marked "Defendants' Exhibit 244½."

Mr. LOOMIS. I also offer in evidence a portion of the Track Statement of the Great Northern Railway and Proprietary Companies, found on page 41 of the 20th Annual Report of the Great Northern Railway Company, for the fiscal year ended June 30, 1909.

The statement was marked Defendants' Exhibit 245, and is as follows:

DEFENDANTS' EXHIBIT 245.

TRACK STATEMENT.

Great Northern Railway and proprietary companies.

	Miles.	Main track.	Total.
Owned by Great Northern Railway Co.:		*Miles.*	*Miles.*
First Main Track		6,368.55	6,368.55
Second Track	141.06		
Third Track	9.28		
Fourth, Fifth and Sixth Tracks	13.05		163.39
Sidings, Spurs and Yard Tracks			1,617.23
Total Miles of Tracks Owned [a]		6,368.55	8,149.17

[a] 2.26 miles double track and 7.08 miles side tracks at Seattle, Wash., owned jointly with Northern Pacific Railway Company.

8126 Mr. LOOMIS. I also offer in evidence subject to the same stipulation which governed the admission of photographs in this case, the map of the Great Northern Railway Company, attached to the 20th Annual Report just referred to.

The map was marked Defendants' Exhibit 246.

(A recess was then taken until 2 o'clock P. M.)

8127 WILLIAM MAHL,

being duly sworn as a witness on behalf of the Defendants, testified as follows:

Direct examination by Mr. DUNNE:

Q. Mr. Mahl, you are the comptroller of the Union Pacific and Southern Pacific systems?

A. I am.

Q. Have you a statement or memorandum of the stocks of the St. Joseph & Grand Island Railway Company owned by the Union Pacific Railroad Company?

A. I have.

Q. Will you produce it.

Witness produces paper.

Q. Did you draw that off the books at my request?

A. I did.

Q. That is as of March 4, 1910?

A. It is.

Q. There has been no change since that date?

A. No.

Q. That was made as of the same date as the other statement that you prepared?

A. Contemporaneously, yes, sir.

The paper produced by the witness was marked Defendants' Exhibit 247, offered in evidence, and is as follows:

DEFENDANTS' EXHIBIT 247.

(Mahl.)

UNION PACIFIC RAILROAD COMPANY.

Statement of Stocks of St. Joseph & Grand Island Ry. Co. Owned.

	Owned.	Outstanding.	Per Cent Owned.
Common	$3,080,000	$4,600,000	66.96
First Preferred	1,251,400	5,500,000	22.75
Second Preferred	1,747,850	3,500,000	49.94
Per cent of total			44.70
March 4, 1910.			

8128 Q. Have you a statement of the investment stocks as of March 4th?

A. I have.

Q. This was also drawn off the books of the company?

A. Yes, sir.

The paper produced by the witness was marked Defendants' Exhibit 248, offered in evidence, and is as follows:

DEFENDANTS' EXHIBIT 248.

(Mahl.)

UNION PACIFIC RAILROAD COMPANY.

Investment Stocks Owned March 4, 1910.

	Owned by Union Pacific R. R. & Auxiliary Companies.	Outstanding.	Per Cent. owned by U.P.R.R. Co. & Auxiliary Cos.
Baltimore & Ohio R. R. Co.—			
Common	$32,334,200	$152,175,829	21.25
Preferred	7,206,400	60,000,000	12.01
Per cent. of total			18.59
Chicago & Alton R. R. Co.—			
Common		19,542,000	
Preferred	10,343,100	19,544,000	52.92
Prior Lien		879,300	
Per cent. of total			25.88

Investment Stocks Owned March 4, 1910—Continued.

	Owned by Union Pacific R. R. & Auxiliary Companies.	Outstanding.	Per Cent. owned by U. P. R. R. Co. & Auxiliary Cos.
Chicago & Northwestern Ry. Co.—			
Common	$4,018,750	$127,440,913	3.15
Preferred		27,998,694	
Per cent. of total			2.59
Chicago, Mil. & St. Paul Ry. Co.—			
Common		116,348,200	
Preferred	1,845,000	116,274,900	1.59
Per cent. of total			.79
Illinois Central R. R. Co	23,700,000	109,296,000	21.68
N. Y. Central & Hudson River R. R. Co	17,857,125	223,290,000	8.00
Northern Securities Stubs	724,900	2,954,000	18.33
Railroad Securities Co.—			
Common	3,483,400	3,486,420	99.91
Preferred	1,935,900	1,936,900	99.95
Per cent. of total			99.93
Southern Pacific Company March 4, 1910.	126,610,000	272,672,205	46.43

8129 Q. Have the stockholdings of the Union Pacific, or of the auxiliary companies—Short Line and Navigation Company—in Great Northern and Northern Pacific and Atchison preferred been sold?

A. Yes.

Q. Can you give us the date when the last Great Northern was sold and the last Northern Pacific?

A. The last Northern Pacific was sold on November 19, 1908; the last sale of Great Northern April 6, 1909, and the entire holdings of the Atchison stock was sold July 31, 1909.

Q. Did the Southern Pacific Company issue any bonds secured by mortgage—what has been referred to as the 2-5 year mortgage—in 1909?

A. It did.

Q. To what extent were the assets of the company pledged for that mortgage?

A. They pledged all the available assets which they then had in the treasury unpledged.

Q. That was in 1900?

A. December, 1900.

Q. Can you state whether from and including the year 1901—I don't know whether this appears in the record or not—whether from and including the year 1901 the purchase or purchases of Southern Pacific stock by the Union Pacific Railroad Company has been reported to the Interstate Commerce Commission?

A. They were reported yearly in the reports of the company.

Q. In referring to years, you mean the fiscal year ending June 30, do you?

A. Yes, fiscal years ending June 30.

Cross-examination, by Mr. SEVERANCE:

Q. You have not reported to the Interstate Commerce Commission the purchase of the 74,000 shares of Southern Pacific stock in
8130 January, 1910, testified to yesterday by Mr. Kahn, have you, up to this time?

A. No.

Q. That will come in the next year's report, unless it is disposed of in the meantime?

A. Yes.

Q. When were those 74,000 shares purchased? When did the purchases begin—before or after the first of January, 1910?

A. I don't recall now.

Q. You don't remember?

A. No. I rather think after January 1st, although I am not certain. I can refer to the copy of the resolution which authorized the purchase.

Q. It is not specially important. I did not know but you might have it in mind.

A. No.

Q. I call your attention to Defendants' Exhibit 248, which shows the investment stocks of the Union Pacific Railroad as of March 4, 1910. This is headed "Union Pacific Railroad Company, Investment Stocks owned March 4, 1910." That includes not only the Union Pacific Railroad Company but also the Oregon Short Line Railroad Company?

A. Yes.

Mr. DUNNE. Look at the sub-headings.

Q. The words "Auxiliary companies" as used here mean what?

A. They mean the Oregon Short Line Railroad Company and the Oregon Railroad & Navigation Company. We always treat the three companies as one in all our combined statements.

Q. For the reason that the Union Pacific owns the stock of the other two?

A. Yes.

Q. So that they together constitute the Union Pacific Railroad System?

A. Yes.

Q. In this statement I observe that you have separated the Illinois Central stock and the Railroad Securities stock; that is, you
8131 have Illinois Central $23,700,000, owned by Union Pacific R. R. and Auxiliary Companies, out of $109,296,000, or 21.68 per cent; Railroad Securities Company, common $3,483,400 out of $3,486,420, or 99.91 per cent, and Railroad Securities Company, preferred $1,935,900, out of $1,936,900, or 99.95 per cent, being 99.93 per cent of the total stock of the Railroad Securities Company. Now, the Railroad Securities Company owns nothing, does it, except stock of the Illinois Central?

A. That is all.

Q. How many shares of the stock of the Illinois Central are owned by the Railroad Securities Company?

A. I think 92,000 shares.

Q. That would be $9,200,000?

A. Yes.

Q. To get at the total holdings of Illinois Central stock of the Union Pacific and Auxiliary Companies, you would have to add $9,200,000 to the $23,700,000 shown as directly owned in this statement?

A. Not entirely. The 80,000 shares are subject to a lot of certificates which the Railroad Securities have outstanding.

Q. In the nature of a bond?

A. Yes.

Q. But for voting purposes the Railroad Securities Company votes the stock, doesn't it?

A. I don't know; I couldn't say as to that.

Q. Do you remember the outstanding obligations secured by the pledge of the stock of the Illinois Central owned by the Securities Company?

A. 80,000 shares.

Q. I say what is the extent of the debt secured by that 80,000 shares?

A. I don't recall now.

Mr. DUNNE. In the exhibit that was used at the former
8132 hearing, the Illinois Central and the Railroad Securities were stated separately, in the same way that we have done here.

Q. It was testified, the testimony being based on figures furnished from your office, at the hearing before the Interstate Commerce Commission, as I recall it, that the Union Pacific, either directly or through its ownership of Railroad Securities stock, held between 29 and 30 per cent of the stock of the Illinois Central. Has that been changed? Have you acquired any more?

A. We may have acquired some more because of some subscription rights which may have been offered to the stockholders.

Q. Has your relative holding changed?

A. Doesn't that statement show how much we hold now?

Q. No; this statement shows 21.68 per cent owned directly. It does not show the amount of Illinois Central stock held by the Railroad Securities Company?

A. No.

Q. This statement does not show it?

A. No. I do not think we ever dealt with the 80,000 shares as being controlled by us, have we?

Q. That is the way the testimony stood. Perhaps I can turn to it and refresh your recollection. Understand, Mr. Mahl, I am in no way questioning the accuracy of your table, but I want to have the testimony jibe.

A. Subscription rights were offered to stockholders some time ago.

Q. This statement shows that you have acquired a little more Railroad Securities stock since the autumn of 1906. (Page 746 of the printed record.)

A. Yes.

Q. It appears by this testimony, which is Harriman Exhibit
8133 No. 2, page 746, Vol. 2, of the record, that at that time you owned $3,415,400 of the common stock of the Railroad Securities Company. They have now $3,483,400. You had then $1,898,400 par value of the Railroad Securities preferred stock, and you now have $1,935,900. So that you have increased your holdings of Railroad Securities stock to a slight extent since then?

A. Yes.

Q. Now you own within 7/100 of 1 per cent of the whole of it, according to this statement.

A. Yes.

Q. The statement also shows that you owned, at that time, of the Illinois Central stock $18,623,100 par value, and you now own directly $23,700,000 par value, or about $5,000,000 additional. Now, was that stock, that additional stock that you own directly, acquired by virtue of subscription rights upon an increase of the capitalization of the Illinois Central, or was it otherwise acquired?

A. I think there were subscription rights offered to them; I think it was all by subscription rights.

Q. Well, you may look that up, and if it is not correct you can notify us.

A. Yes. I think it is correct.

Q. You have also testified here relative to the stocks of the St. Joseph & Grand Island.

A. Yes.

Mr. SEVERANCE. In connection with the cross-examination of Mr. Mahl I will offer in evidence a certified copy of the minutes of the Executive Committee of the Union Pacific Railroad Company, held on May 29, 1906, so far as it covers the action of the committee relative to the purchase of the St. Joseph & Grand Island stock, the same being Harriman Exhibit No. 1 in the investigation of the
8134 Interstate Commerce Commission, heretofore referred to in this proceeding, said certified copy reading as follows:

UNION PACIFIC RAILROAD CO.

(Certified Copy.)

(Executive Committee, May 29th, 1906, St. Jos. & G. Island.)

PURCHASE OF STOCK.

It appeared that Director Stillman, who with Director Hughitt was appointed a Special Committee on January 11, 1906, to consider the expediency in acquiring and to ascertain the terms upon which the

capital stock of the St. Joseph & Grand Island Railway Company could be acquired, left for Europe soon after his appointment and is still absent, and unable on that account to act upon said Committee. In view of which, upon motion duly made and seconded, the following resolution was adopted, Mr. Harriman not voting, viz:

Resolved, That Director Frick be and he is hereby appointed in place of Director Stillman to act with Director Hughitt as a special committee to consider the expediency of acquiring and to ascertain the terms upon which the capital stock of the St. Joseph & Grand Island Railway Company can be acquired by this Company and recommended to this Company such action as they think should be taken in regard thereto.

COMMITTEE'S REPORT.

The following report was submitted, viz:

NEW YORK, *May 29th, 1906.*

8135 *To the Executive Committee, Union Pacific Railroad Co.*

GENTLEMEN: The undersigned special Committee, heretofore appointed to consider the expediency of acquiring and to ascertain the terms upon which the capital stock of the St. Joseph & Grand Island Railway Company could be acquired by this Company and recommend such action as they think should be taken, in regard thereto, submit the following Report, viz.:

The Grand Island Company owns a railroad extending from St. Joseph, Mo., to Grand Island, Neb., a distance of 251.06 miles. Under agreements with the Atchison, Topeka & Santa Fe Railway Company, Quincy, Omaha & Kansas City Railroad Company, Chicago, Milwaukee & St. Paul Railway Company, and Kansas City Southern Railway Company, it also has trackage rights between St. Joseph and Kansas City, a distance of 61.15 miles, making in all 312.21 miles of main line operated. It also owns 12.4 miles of passing tracks and 34.6 miles of industry tracks. A report made in January last (after a personal inspection of the property) by Mr. R. L. Huntley, Acting Chief Engineer of the Union Pacific Railroad Company, gives, briefly stated, the following information regarding its physical condition:

Track.—Between St. Joseph and Hanover 73 miles of track is laid with 80 lb. steel rails, and 55 miles with 60 lb. steel rails; the heavier rails having been laid in recent years.

Between Hanover and Grand Island, 48 miles of track is laid with 60 lb. steel rails, and 75 miles with 52 lb. steel rails.

8136 The ties throughout are nearly all of white oak and in fairly good condition.

Bridges.—The Company has recently built a new single track railroad bridge, with highway on one side, across the Missouri River at St. Joseph, costing between $400,000 and $500,000. On the main line there are two riveted through truss bridges and one

through pin truss bridge, built in about 1887, which have been strengthened to permit the use of the engines presently owned.

The remaining bridges are pile trestle bridges, in fair condition, and probably average about five 15 foot spans per mile of main line.

Buildings, etc.—Generally the building and station grounds are poorly arranged throughout. All the depot buildings are very old, although in fair condition, and, with few exceptions, will probably have to be rebuilt soon.

Terminals, etc.—The St. Joseph terminal embraces a shop plant, consisting of a machine shop, transfer table, roundhouse, and some small buildings, together with coal chute and sand house. This plant is owned jointly by the Atchison, Topeka & Santa Fe Railway Company and the St. Joseph & Grand Island Railway Company (one-half each), but it is operated almost exclusively by the Grand Island Company. The buildings were constructed about eighteen years ago and are in fair condition.

The Grand Island Company also owns a one-tenth interest in the Union Depot property at St. Joseph.

Equipment.—The Grand Island Company owns the following rolling stock, the most of which is in good, or fair, condition:

8137 27 locomotives, 28 passenger cars, 1,110 freight cars.

In a supplemental report made in February, 1906, Mr. Kruttschnitt estimates the cost of needed improvements such as ballasting, the substitution of 75 lb steel rails for those of lighter weight, new bridges sidings, buildings, fences, etc., at $1,002,300, or $6,900 per mile of road. You will notice in the extract from the balance sheet which follows that the Company had, on December 31, 1905, a considerable amount of cash on hand, some of which would undoubtedly be available to meet the cost of these improvements.

In addition to the improvements just referred to it is our understanding that the company may, at some future time be confronted with the necessity of reducing the grades between Marysville and Hanover at an approximate cost of $547,000, but that the volume of traffic does not at this time warrant the expenditure.

The financial position of the Grand Island Company, as disclosed by its balance sheet, was on December 31, 1905, as follows:

ASSETS.

Cost of property		$17,975,864.24
Cash	$474,228.34	
Open accounts	93,711.03	
Material & Supplies	88,191.40	
	$656,130.77	
Less, Current liabilities	285,557.40	
		370,573.37
Contingent assets	107,853.89	
Less, Contingent liabilities	18,789.52	
		89,064.37
		$18,435,501.98

8138 LIABILITIES.

First Preferred 5% non-cum. stock (auth. $5,500,000)		$5,498,500.00
Second Preferred 4% non-cum. stock (auth. $5,000,000)		3,500,000.00
Common Stock (authorized issue)		4,600,000.00
		$13,598,500.00
First mortgage 4% Gold Bonds, due Jan. 1, 1947, (authorized $5,000,000—$1,000,000 reserved for additional mileage at $6,000 per mile	$4,000,000.00	
Equipment notes 5% due May 1, 1909 (payable in semi-annual instalments)	245,000.00	
		4,245,000.00
Surplus to the credit of Income Account		592,001.98
		$18,435,501.98

Earnings, etc.—For the four and one-half years ending December 31, 1905, the average yearly earnings, operating expenses, taxes and charges of the Grand Island Company were as follows:

Gross earnings	$1,371,031.
Operating expenses and taxes	1,066,880.
Net earnings	$304,151.
Interest, etc	150,154.
Surplus for stock	$153,997.
8139 To which may be added	48,000.
For the proportion of the cost of rebuilding the Missouri River Bridge charged to the operating account in that period, making the normal average annual surplus about	201,997.

In the event of the acquisition of the control of this property by the Union Pacific Railroad Company the surplus of stock would of course be augmented by the profit on such additional traffic as the Union Pacific Company could advantageously route via the Grand Island Road.

We learn from Mr. E. H. Harriman, who controls the same, that 9,322 shares of the First Preferred, 12,500 shares of the Second Preferred, and 29,000 shares of the Common Stock (in all 37% of the total shares in force) of the St. Joseph & Grand Island Railway Company could be obtained on July 10, 1906, for $2,022,540., plus interest at 4% from February 1st, 1906. The acquisition of this stock would secure practical control of the property, and at the price named would (at 4%) impose upon the Union Pacific Railroad Company an annual carrying charge of substantially $80,500. In view of the expenditures necessary to place the property in proper physical condition to economically handle an increased tonnage, it is not likely that this carrying charge would, in the near future be materially offset by dividends on the stock of the Grand Island Company but the value of the stock would of course be enhanced by the application of surplus net earnings to permanent betterments.

8140 After a careful review of such data as we have been able to obtain, it is our judgment that the strategic position of this property, the economies to be effected by its use due to the savings in distance and more favorable gradients and curvature and its en-

trance into the City of St. Joseph, considered in connection with the plans of the Union Pacific Company for the enlargement of its trans-Missouri River System and the further fact that its acquisition by hostile interests might prove both vexatious and costly, fully warrant the Union Pacific Company in securing the practical control of the property on the terms suggested. We, therefore, recommend the purchase of 9,322 shares of the First Preferred, 12,500 shares of the Second Preferred, and 29,000 shares of the Common Stock, above referred to, of the St. Joseph & Grand Island Railway Company at the price and upon the terms above stated, delivery thereof to be made July 10, 1906; and we also recommend the purchase of additional shares of the capital stock of said Company when and as the same, from time to time, may be acquired upon satisfactory terms.

(Signed) MARVIN HUGHITT
(") H. C. FRICK.

Thereupon, upon motion duly made and seconded, the following resolution was adopted, Director Harriman not voting, viz.:

Resolved, that the foregoing Report, submitted by its Directors Hughitt and Frick, be and such report is hereby approved and adopted; and the purchase of 9,322 shares of the First Preferred, 12,500 shares of the Second Preferred, and 29,000 shares of the Common stock of the St. Joseph & Grand Island Railway Company, to be delivered July 10, 1906, at and for the price of $2,022,540, with interest on said price at the rate of 4 per cent per annum from February 1st, 1906, be and such price is hereby authorized and approved.

8141 Q. It appears by this resolution of the Committee that at that time, to wit, May 29, 1906, the Union Pacific Railroad Company purchased from Mr. Harriman 9,322 shares of the First Preferred stock, 12,500 shares of the Second Preferred stock, and 29,000 shares of the Common stock, of the St. Joseph & Grand Island Railway Company. From your exhibit 247 it appears that you now have 12,514 shares of First Preferred, 17,478½ shares of Second Preferred, and 30,800 shares of Common, aggregating a total of 44.70 per cent of the total stock. When did you buy these additional shares?

A. During last fall, beginning last October or thereabout.

Q. What was the purpose of buying those additional shares, do you know?

A. I don't know.

Q. Upon whose instructions were they bought?

A. I presume by a resolution of the board of directors.

Q. But you have no knowledge about that?

A. I have, because copies of the resolution have been furnished to me.

Q. You are a director of the Union Pacific, aren't you?

A. Not now.

Q. I thought you were a director?

A. No. After Mr. Harriman's death I resigned.

Q. Were you a director at the time of these purchases?

A. I was not.

Q. Do you know from whom these shares were purchased?

A. I do not.

Q. You don't know whether they were bought in block or bought in the market generally?

A. My impression is that they were bought in the open market.

8142 Q. At the time this testimony was taken, it appeared that on the 13th and 16th days of July, 1906, the Oregon Short Line Railroad Company owned $2,572,000 par value of the Chicago & Northwestern Railway Company common; by Exhibit 248 it appears that you now have $4,018,750. How did the Oregon Short Line happen to purchase the additional stock, if you know?

A. It was acquired under subscription rights given the stockholders.

Q. So your relative holding remained the same?

A. Yes.

Q. It appeared at that time that the Oregon Short Line Railroad Company owned $14,285,745 par value of New York Central & Hudson River Railroad Company stock. It now owns, according to Defendants' Exhibit 248, $17,857,125. When and why did it acquire that additional stock?

A. Under the subscription rights which were offered to shareholders last fall.

Q. You haven't bought any except as you subscribed by virtue of your ownership of the other stock?

A. No.

Q. It also appears by Defendants' Exhibit 248 that the Union Pacific Railroad Company is now the owner of $10,343,100 of the preferred stock of the Chicago & Alton. That has not been changed, has it?

A. It has not.

Q. And there has been no change in the amount of your ownership of Baltimore & Ohio common or preferred stock?

A. None.

Q. Defendants' Exhibit 248 shows your present holding of Southern Pacific stock to be $126,610,000 out of a total of $272,672,205, or 46.43 per cent. That includes, of course, the recent purchases?

A. Yes.

Q. And that is the total that you hold now?

A. Yes.

8143 Q. Mr. Dunne asked you something with reference to what you called the 2-5 year mortgage. What was the 2-5 year mortgage?

A. It was a mortgage issued in December, 1900, collateral trust bond, running for a period of 5 years from December, 1900, with the option of retiring it at the expiration of 2 years.

Q. Issued by the Southern Pacific Company?

A. Issued by the Southern Pacific Company, for $30,000,000, to raise money for betterments and additions and to pay off certain floating debts.

Q. Were those bonds sold prior to the acquisition of the Southern Pacific stock by the Union Pacific?

A. I think they were. In fact I know they were, yes.

Q. You stated in answer to Mr. Dunne that they pledged all the available assets of the Southern Pacific Company.

A. I did.

Q. What was the nature of the assets that were pledged? I suppose it will be shown by the mortgage.

A. The mortgage shows that. They were bonds and stocks which the Southern Pacific Company had acquired from time to time, in addition to the stocks which were pledged collaterally against the issue of its own stock. They were bonds of the Houston, East & West Texas, the Houston & Shreveport, the Gila Valley, Globe & Northern, Maricopa & Phoenix, and various stocks of small collateral lines which the Company had acquired.

Q. They were stocks and bonds which constituted free assets in the hands of the company?

A. Yes.

Q. And not previously encumbered?

A. No.

8144 Mr. DUNNE. We will now adjourn the further hearing of the case until Monday, March 28, 1910.

Mr. SEVERANCE. With the further understanding that the Court will reconvene for the purpose of hearing rebuttal on Monday, the 4th day of April following. That is the understanding between us. They adjourn until the 28th of March, giving them up to the 1st of April, and we can begin our rebuttal on the following Monday.

The SPECIAL EXAMINER. You want the session here for your rebuttal?

Mr. SEVERANCE. Yes, as far as at present advised. We will at least begin here, and if we want to move we will have to ask Your Honor to move, but as far as I know we will take what we have to take here. I imagine it will be rather short.

An adjournment was thereupon taken until Monday, March 28, 1910, at 10:30 A. M., at Room 720, Custom House, Bowling Green, New York City.